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Alcohol and Gaming Division
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Balance Public Health, Safety & Welfare with Business &
Economic Development

New Mexico
Regulation & Licensing Department

Rules and Regulations

Note: All licensees must keep a copy of the Laws and
Regulations and all amendments on hand at all times
(2/10/2005)

Source: NMAC Website, 12/1/08
http://www.nmcpr.state.nm.us/nmac/_title15/T15C011.htm

This rule was filed as 15 NMAC 10.1.1.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 2 DEFINITIONS

15.10.2.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

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

15.10.2.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.

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

15.10.2.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

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

15.10.2.4 DURATION: Permanent.

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

15.10.2.5 EFFECTIVE DATE: July 15, 1999, unless a later date is cited at the end of a section or paragraph.

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

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.10.2.6 OBJECTIVE: This regulation is intended to locate all definitions of terms used in the Liquor Control Act, or in these regulations in one regulation.

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

15.10.2.7 DEFINITIONS: Unless otherwise defined below, terms used in Title 15, Chapter 10 and Chapter 11, have the same meanings as set forth in the Liquor Control Act:

A. "Affiliate of the licensee" means any of the following:

(1) A corporation is an affiliate of a licensee if:

(a) the corporation, or its officers, directors or controlling shareholders, owns a majority of stock of a licensee that is itself a corporation; or

(b) a licensee that is itself a corporation, or its officers, directors or controlling shareholders, if the licensee owns a majority of the corporation.

(2) A limited liability company is an affiliate of a licensee if:

(a) the limited liability company, or its manager or controlling members, owns a majority of the stock of a licensee that is a corporation;

(b) a licensee that is itself a corporation, or its officers, directors or controlling shareholders, owns the controlling membership interest in the limited liability company; or

(c) licensee that is a corporation is the manager of the limited liability company.

B. "Alcoholic beverage display area" means that portion of a licensee's premises in which all alcoholic beverages on display for sale are contained.

C. "Applicant" means (a) an individual 19 years of age or older seeking a server permit under the Alcohol Server Education Article of the Liquor Control Act; or (b) a person applying for a liquor license.

D. "Approved operator" means the licensee or lessee approved by the department to operate a liquor license.

E. "Bartender" means a person who pours alcohol into a container, or who opens alcohol in containers, for immediate service and consumption on the premises, except for the service of wine or beer at a customer's table in a restaurant.

F. "Bona fide guest" means a person who is invited personally by the host at no charge to the guest to attend.

- G. "Controlling shareholders" means persons or entities who own 50 percent or more of the outstanding shares of stock in a corporation.
- H. "Controlled access area" means that portion of a licensed premises under the licensee's or lessee's direct control where the licensee or lessee stores, sells, serves, delivers and provides a place for patrons to consume alcoholic beverages.
- I. "Employee" means any person, whether paid or not, who works under the direction of a licensee or lessee or a licensee's or lessee's designate selling or serving alcoholic beverages.
- J. "Filing period" means the period beginning at 8:00 a.m. on October 1, and ending at 12:00 p.m. on December 31, or upon receipt by the department of the tenth priority application, whichever is later.
- K. "Independent contractor" means a person who has obtained the right to own, teach or otherwise use an approved alcohol server education program.
- L. "large premises licensee" means a retailer or a dispenser for which alcoholic beverages constitute less than 60 percent of sales, and whose establishment contains 20,000 or more square feet of merchandise display space.
- M. "Legal entity" means a corporation, general partnership, limited partnership, limited liability company, association or other entity recognized under the law, other than an individual.
- N. "Licensee" means the holder of any license or permit authorizing the sale of alcoholic beverages issued under the provisions of the Liquor Control Act, but does not mean the holder of a server permit.
- O. "Member" means:
- (1) a person who pays membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, has all voting rights and full membership privileges as described in Section 60-3A-3(D) NMSA 1978;
 - (2) the adult spouse and the children of a member who pays membership dues or of a deceased member who paid membership dues as described in Section 60-7A-13 NMSA 1978;
 - (3) a member of an official auxiliary or subsidiary group of the club who has been issued a personal identification card in accordance with the rules and regulations of the club, as described in Section 60-7A-13 NMSA 1978; the club licensee must furnish proof to the director of the applicable rules and regulations governing personal identification cards, and of the relationship between the club and the official auxiliary or subsidiary group; or
 - (4) a person who pays membership dues and is a member of a class of persons without full voting rights or full membership privileges, so long as such members are provided for in the articles of incorporation, bylaws, charter, constitution or resolution of the board of directors or other appropriate governing body of the entity holding the club license; members described in this paragraph may not purchase, be served or consume alcoholic beverages within the bar or lounge area of the licensed premises, but may purchase, be served or consume alcoholic beverages in other areas of the licensed premises while engaged in activities whose primary purpose is other than the consumption of alcoholic beverages.
- P. "Primary activity" means the principal, but not necessarily exclusive, use of an area of a licensed premises at any given time. If more than 50 percent of the annual total gross receipts are from the sale of alcoholic beverages for consumption on the licensed premises, the primary activity shall be deemed to be the sale of alcoholic beverages for consumption on the licensed premises.
- Q. "Principal officer" means the president, vice-president, secretary, or treasurer of the licensee, the manager or managers of a limited liability company, or the president, vice-president, secretary or treasurer of any corporation, or the manager or managers of a limited liability company holding a direct or indirect interest in the license, which requires that corporation or limited liability company to be disclosed if that officer or manager has the authority to do any act on behalf of the licensee.
- R. "Priority application" means one of the first ten applications received during any filing period or, if more than ten are received on the first day of the filing period, the ten applications randomly selected by the director pursuant to 15 NMAC 11.2.7.9 [now 15.11.27.9 NMAC].
- S. "Private party" means an event held on a licensed premises in response to a written invitation to bona fide guests, but not advertised to the general public.
- T. "Public nuisance" means loitering of habitual drunkards or intoxicated persons, lewd or indecent displays, profanity, rowdiness, undue noise, consumption of alcoholic beverages in the parking lot of the licensed premises, use of weapons on the licensed premises or in the parking lot, lack of adequate security outside of the licensed premises, lack of adequate lighting outside of the licensed premises,

vandalism to vehicles or other property, or other disturbances or activities offensive to the average citizen or to the residents of the neighborhood in which the licensed premises are located.

U. “Restaurant” means any establishment, except a “fast food” establishment, having a New Mexico resident as a proprietor or manager that is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment; that has a dining room, a kitchen, and the employees necessary for preparing, cooking and serving meals.

V. “Restricted area” means an area of a licensed premises in which minors are not allowed to enter, unless the minor is accompanied by a parent, adult spouse or legal guardian, because the primary activity in that area is the sale, service or consumption of alcoholic beverages.

W. “School” means a public or private educational institution teaching any of the grades of one (1) through 12, a junior college, four-year college, university or other post-secondary educational institution, if it is accredited by the north central accrediting association. “School” shall also mean a center for attendance where instruction is offered by certified school instructors and is discernible as a building or group of buildings generally recognized as a preschool, kindergarten, elementary, secondary, middle school, junior high, high school or combination thereof. It shall not include home school as defined in Public School Code. “School” shall also include any state educational institution listed in Article XII, Section 11, New Mexico Constitution.

X. “Securities listed on a national securities exchange” means securities listed or approved for listing on the New York stock exchange or American stock exchange, or designated or approved for designation for inclusion on the national market system by the national association of securities dealers, inc.

Y. “Small premises licensee” means a retailer or a dispenser for which alcoholic beverages constitute less than 60 percent of sales, and whose establishment contains less than 20,000 square feet of merchandise display space.

Z. “Substantially complete” means the completed application for inter-local option district transfer (including all completed pages), all necessary fees, corporate documents, conveyance instruments, fingerprint cards, leases of real property, zoning clearances and affidavits regarding distances from a church or school that will require waivers from the local governing body and waivers.

AA. “Unrestricted area” means an area of a licensed premises in which minors are allowed to enter unaccompanied by a parent, adult spouse or legal guardian, because the primary activity in that area is not the sale, service or consumption of alcoholic beverages.

[7/15/99, A, 2/29/00; Recompiled 12/31/01]

HISTORY OF 15.10.2 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 4B-5, Definition Regulation 4B-5 Interpreting and Exemplifying Section 60-4B-5 NMSA 1978 (1981 Repl. Pamp.), filed 3/23/82;

ABC Regulation No. 4B-5.(B), Definition Regulation 4B-5.(B), Interpreting and Exemplifying Section 60-4B-5 NMSA 1978 (1981-1984 Supp.), filed 11/4/85; and

AGD Regulation 4B-5(B), Definition, filed 9/25/90;

ABC Regulation No. 6B-10(2), Definition of School” Interpreting and Exemplifying Section 60-6B-10 NMSA 1978, filed 12/16/83;

ABC Regulation No. 6B-10(B), Definition of School” Regulation 6B-10(B), Interpreting and Exemplifying Section 60-6B-10 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD Regulation 6B-10(B), Definition of School,” filed 9/25/90;

AGD 6B-10(C), Premises Licensed Prior to 1981, filed 9/25/90;

AGD Regulation 7A-1(C), After Hours, filed 9/25/90;

ABC Regulation No. 6C-1(3).(A), Public Nuisances Regulation 6C-1(3).(A), Interpreting and Exemplifying Section 60-6C-1(3) NMSA 1978 (1981-1984 Supp.), filed 11/4/85; and

AGD 6C-1, Public Nuisances, filed 9/25/90.

History of Repealed Material: [RESERVED]

This rule was filed as 15 NMAC 10.3.1.

TITLE 15 GAMBLING AND LIQUOR CONTROL PART 1 GENERAL PROVISIONS
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 31 PREMISES - GENERAL REQUIREMENTS

15.10.31.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; Recompiled 12/31/01]

15.10.31.2 SCOPE: These regulations apply to all licensees under the New Mexico Liquor Control Act.

[3/31/97; Recompiled 12/31/01]

15.10.31.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the division [department]. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

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

15.10.31.4 DURATION: Permanent.

[3/31/97; Recompiled 12/31/01]

15.10.31.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart remain unchanged from the following rules: AGD Regulation 3A-2(D), Lighting of Licensed Premises, filed 9/25/90; and AGD Regulation 3A-2(E), Sanitation Requirements, filed 9/25/90.

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

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.10.31.6 OBJECTIVE: These regulations are intended to establish standards for the general operation and maintenance of licensed premises.

[3/31/97; Recompiled 12/31/01]

15.10.31.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.

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

15.10.31.8 LIGHTING OF LICENSED PREMISES: At any licensed premises open for business, the interior lighting shall be sufficient to make easily discernible to persons of average vision, the appearance, age and conduct of all persons on the premises where alcoholic beverages are sold, served or consumed.

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

15.10.31.9 SANITATION REQUIREMENTS: All licensees shall comply with all applicable sanitation requirements prescribed by the state of New Mexico and local sanitation ordinances. Failure to comply shall be deemed a violation of this regulation.

[3/31/97; Recompiled 12/31/01]

15.10.31.10 POSTER REQUIREMENTS: This entire section has been moved and renumbered to 15 NMAC 11.1.1.10 [now 15.11.2.10 NMAC].

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

HISTORY OF 15.10.31 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 3A-2.(E), Lighting of Licensed Premises Regulation 3A-2.(E), Interpreting and Exemplifying Section 60-3A-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD 3A-2(D), Lighting of Licensed Premises, filed 9/25/90;

ABC Regulation No. 3A-2.(F), Sanitation Requirements Regulation 3A-2.(F), Interpreting and Exemplifying Section 60-3A-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85; and

AGD 3A-2(E), Sanitation Requirements, filed 9/25/90.

History of Repealed Material:

15 NMAC 10.3.1.8.2, Repealed 7/15/99.

This rule was filed as 15 NMAC 10.3.2.

TITLE 15 GAMBLING AND LIQUOR CONTROL

CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS

PART 32 PREMISES - LOCATION AND DESCRIPTION OF LICENSED PREMISES

15.10.32.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; Recompiled 12/31/01]

15.10.32.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.

[3/31/97; Recompiled 12/31/01]

15.10.32.3 AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

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

15.10.32.4 DURATION: Permanent.

[3/31/97; Recompiled 12/31/01]

15.10.32.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart remain unchanged from the following rules: AGD Regulation 6B-10(A), Location Near Church, School or Military Installation, filed 9/25/90.

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

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.10.32.6 OBJECTIVE: These regulations are intended to establish standards for the location and description of areas identified as licensed premises.

[3/31/97; Recompiled 12/31/01]

15.10.32.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.

[Paragraph 15 NMAC 10.3.2.7.1 has been moved and renumbered to 15 NMAC 10.1.1.7.23 [now Subsection W of 15.10.2.7 NMAC]

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

15.10.32.8 LOCATION NEAR CHURCH, SCHOOL OR MILITARY INSTALLATION: All measurements for the purpose of determining the location of a licensed premises in relation to churches, schools or military installations shall be the shortest direct line measurement between the actual limits of the real property of the church, school or military installation in which there is regularly conducted church services, educational functions or military troops housed, and the licensed premises where alcoholic beverages are proposed to be sold. If the proposed licensed premises is within 400 feet of a church or school, and the applicant does not admit the proposed licensed premises is within 300 feet of a church or school, the application must be accompanied by a certified report of a registered engineer or duly licensed surveyor.

[3/31/97; Recompiled 12/31/01]

15.10.32.9 PREMISES WHERE ALCOHOL WAS SOLD PRIOR TO 1981:

A. For purposes of transfer and issuance of liquor licenses, a location where alcoholic beverages were sold prior to July 1, 1981, is a location that was licensed for the sale of alcoholic beverages by the department prior to July 1, 1981. For purposes of special dispenser's permits, a location where alcoholic beverages were sold prior to July 1, 1981, includes church and school property where alcoholic beverages were traditionally sold prior to July 1, 1981, at events, such as annual church fiestas or school fundraisers, even if the premises were not licensed by the department prior to July 1, 1981.

B. If an applicant seeks to have a location approved as a licensed premises where alcoholic beverages were sold prior to July 1, 1981, and if alcoholic beverages have not been sold on the previously licensed premises for a period of 12 months or more, the applicant has the burden of showing the church or school has not detrimentally relied on the lack of sales or closing of the previously licensed premises. An applicant for a special dispenser's permit on church or school property has the burden of establishing that

sales of alcoholic beverages occurred on the church or school property on an annual or other regular basis prior to July 1, 1981.

[3/31/97; Recompiled 12/31/01]

15.10.32.10 LICENSED PREMISES OF HOTEL, RACETRACK, CLUB OR RESTAURANT:

Nothing in these regulations shall prohibit the licensure of the entire premises of any “hotel”, “racetrack” or “club”, as defined in the Liquor Control Act, or any restaurant with a dispenser’s license, when any of these types of licenses are operated by the licensee who profits directly and exclusively from the operation of the license.

[3/31/97; Recompiled 12/31/01]

15.10.32.11 GOLF COURSE AS LICENSED PREMISES: Golf courses may be licensed in their entirety subject to the following conditions:

- A. an accurate description of the golf course with the proposed controlled access areas clearly marked must be filed with the department;
- B. the sale, service and consumption of alcoholic beverages on the golf course is limited to controlled access areas,
- C. if roads are included in controlled access areas, the boundaries of golf cart and pedestrian crossings must be clearly marked by permanent marking on the surface of the roads by white or yellow reflective paint or striping material similar to pedestrian crossing markings found on city and state streets and roads.

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

15.10.32.12 [RESERVED]

[3/31/97; 8/2/98; 1/30/98; 7/15/99; Recompiled 12/31/01]

15.10.32.13 CHANGE OR EXPANSION OF LICENSED PREMISES: A licensee may not change or expand the licensed premises without the prior written approval of the director. Applications to change or expand the licensed premises shall be submitted along with the required documentation and application fee of \$75. If the change or expansion of the licensed premises is twenty-five percent (25%) or more of the total existing square footage of the licensed premises, the director may require the licensee to file an application for transfer of location.

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

15.10.32.14 OUTDOOR LICENSED PREMISES: Licensed premises that are outdoors must have clearly defined boundaries that physically separate the licensed premises from the surrounding area.

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

HISTORY OF 15.10.32 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 6B-2.(D), Operation of Licenses on Designated Premises, Interpreting and Exemplifying Section 60-6B-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD 6B-2(C), Operation of Licensed Premises, filed 9/25/90;

ABC Regulation No. 6B-10.(A), Location Near Church, School, or Military Installation Regulation 6B-10.(A), Interpreting and Exemplifying Section 60-6B-10 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD 6B-10(A), Location Near Church, School, or Military Installation, filed 9/25/90;

ABC Regulation No. 6B-12(G)(A), Location of Licensed Premises Regulation 6B-12(G)(A), Interpreting and Exemplifying Section 60-6B-12(G) NMSA 1978 (1981 and 1984 Supp.), filed 12/4/84; and

AGD 6B-12, Location of Licensed Premises, filed 9/25/90.

History of Repealed Material:

15 NMAC 10.3.2.12 Drive-up Windows, Walk-up Windows, Repealed 7/15/99.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 33 PREMISES - MINORS ON LICENSED PREMISES

15.10.33.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; 15.10.33.1 NMAC - Rn, 15 NMAC 10.3.3.1, 04/14/06]

15.10.33.2 SCOPE: These regulations apply to all licensees under the New Mexico Liquor Control Act.
[3/31/97; 15.10.33.2 NMAC - Rn, 15 NMAC 10.3.3.2, 04/14/06]

15.10.33.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-10 of the Liquor Control Act authorizes the director of the alcohol and gaming division to issue and file rules necessary to administer the licensing provisions of the Liquor Control Act (60-3A-1 NMSA 1978). Section 60-3A-7 gives the alcohol and gaming division of the regulation and licensing department authority over all matters relating to the issuance, denial, suspension, or revocation of licenses under the Liquor Control Act. In addition, Section 60-7B-10 of the act requires that the director adopt regulations classifying the types of licensed premises or areas of licensed premises where minors may be present.
[3/31/97, A, 7/15/99; 15.10.33.3 NMAC - Rn, 15 NMAC 10.3.3.3 & A, 04/14/06]

15.10.33.4 DURATION: Permanent.
[3/31/97; 15.10.33.4 NMAC - Rn, 15 NMAC 10.3.3.4, 04/14/06]

15.10.33.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section.
[3/31/97; 15.10.33.5 NMAC - Rn, 15 NMAC 10.3.3.5 & A, 04/14/06]

15.10.33.6 OBJECTIVE: These regulations are intended to classify the types of licensed premises or areas of licensed premises where minors may be present.
[3/31/97; 15.10.33.6 NMAC - Rn, 15 NMAC 10.3.3.6, 04/14/06]

15.10.33.7 DEFINITIONS: Unless otherwise defined in 15.10.2 NMAC, terms used in these regulations have the same meanings as set forth in the Liquor Control Act.
[3/31/97; 7/15/99; 15.10.33.7 NMAC - Rn, 15 NMAC 10.3.3.7 & A, 04/14/06]

15.10.33.8 MINORS ON LICENSED PREMISES:

A. If a licensee chooses to allow minors on the licensed premises for any reason except a bona fide emergency, the licensee must, in an annual application filed with the division, designate the licensed premises as either entirely a restricted area, entirely an unrestricted area, or both restricted and unrestricted areas, showing such designations on a correct floor plan of the licensed premises. The designations shall be approved or disapproved by the division. Licensees shall not permit minors to be in restricted areas. The applicant shall also indicate the nature and extent of security that will be provided to control restricted areas.

(1) If the licensed premises are designated as both restricted and unrestricted areas, and the division approves the designations, restricted areas of the licensed premises must be clearly posted and marked so that they are unmistakable from unrestricted areas.

(2) A licensee who designates both restricted and unrestricted areas on the same licensed premises and receives approval of the division for such designations, must maintain separate books of account for restricted and unrestricted areas to show whether the primary activity in each area is the sale of alcoholic beverages for consumption on the licensed premises.

B. A licensee who chooses to allow minors on the licensed premises must:

(1) ensure that no minor is sold or served, purchases, possesses or consumes an alcoholic beverage on the premises; and

(2) post in restricted areas of the licensed premises conspicuous signs that state that “minors are not permitted in this area, unless accompanied by a parent, adult spouse or legal guardian”.
[3/31/97; 7/15/99; 15.10.33.8 NMAC - Rn, 15 NMAC 15.10.3.3.8 & A, 04/14/06]

15.10.33.9 EMPLOYMENT OF MINORS:

A. In accordance with Section 60-7B-11(B) NMSA 1978, a holder of a dispenser’s, restaurant or club license may employ minors 19 years of age or older to sell or serve alcoholic beverages. Otherwise, no person may employ a minor to participate in the sale or service of alcoholic beverages, except as provided below.

B. A holder of a restaurant, dispenser’s, or club license, or a special dispenser’s permit, may allow minors to enter a restricted area to remove and dispose of alcoholic beverage containers in the course of their employment as bus persons provided that such employees remain in the restricted area no longer than necessary to carry out those duties.

C. A holder of a wholesaler’s, retailer’s, or manufacturer’s license, or a holder of a dispenser’s license who sells by the package, may employ minors to stock and handle alcoholic beverages in unopened containers on or around the licensed premises if an adult 21 years of age or older is on duty directly supervising such activities.

D. A licensee may permit the following minors to enter and remain in a restricted area of a licensed premise during the course of their employment or official duties if the minors are at least 18 years of age:

(1) professional musicians, disc jockeys or other entertainers engaged in their professional capacities, or sound or lighting technicians actively engaged in support of professional musicians, disc jockeys, or other entertainers;

(2) persons performing janitorial services, but only when the licensed premises are closed;

(3) employees of amusement device companies for the purpose of installing, maintaining, repairing or removing any lawful amusement device or vending machine; and

(4) security and law enforcement officers.

[3/31/97; 7/15/99; 15.10.33.9 NMAC - Rn, 15 NMAC 10.3.3.9, 04/14/06]

15.10.33.10 [RESERVED]

[3/31/97; Repealed, 7/15/99; 15.10.33.10 NMAC - Rn, 15 NMAC 10.3.3.10, 04/14/06]

15.10.33.11 NO SALE, SERVICE, POSSESSION OR CONSUMPTION PERMITTED: Under no circumstances, may minors purchase, be served, possess or consume alcoholic beverages on a licensed premises, and nothing in these regulations, including provisions permitting minors on licensed premises, shall be construed as permitting the sale or service to, or possession or consumption of any alcoholic beverage by, a minor on a licensed premises.

[3/31/97; 7/15/99; 15.10.33.11 NMAC - Rn, 15 NMAC 10.3.3.11, 04/14/06]

15.10.33.12 DEFENSE TO SALE TO A MINOR: If the licensee can establish all of the following, it shall be a valid defense to the administrative charge of a sale to a minor:

A. the purchaser falsely represented his or her age by producing, at the time of the alleged illegal sale, a photo identification card which appears to have been issued by a federal, state, county or municipal government, or sub department or agency thereof, and which shows the purchaser to be 21 years of age or older; and

B. the purchaser appeared to be 21 years of age or older; and

C. the seller reasonably relied on the false identification presented and on the purchaser’s appearance, thereby believing the purchaser to be 21 years of age or older.

[7/15/99; 15.10.33.12 NMAC - Rn, 15 NMAC 10.3.3.12, 04/14/06]

HISTORY OF 15.10.33 NMAC:

Pre-NMAC History: None.

History of Repealed Material: 15 NMAC 10.3.3.10, Teen Events, repealed 7/15/99.

NMAC History:

15 NMAC 10.3.3, Premises - Minors on Licensed Premises (filed 3/14/97) was renumbered, amended, and reformatted to 15.10.33 NMAC, Premises - Minors on Licensed Premises, effective 04/14/06.

TITLE 15 GAMBLING AND LIQUOR CONTROL

CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS

PART 51 SALES - RESTRICTIONS ON SALES

15.10.51.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; 15.10.51.1 NMAC - Rn, 15 NMAC 10.5.1.1, 10/15/06]

15.10.51.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.

[3/31/97; 15.10.51.2 NMAC - Rn, 15 NMAC 10.5.1.2, 10/15/06]

15.10.51.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

[3/31/97; 7/15/99; 15.10.51.3 NMAC - Rn, 15 NMAC 10.5.1.3, 10/15/06]

15.10.51.4 DURATION: Permanent

[3/31/97; 15.10.51.4 NMAC - Rn, 15 NMAC 10.5.1.4, 10/15/06]

15.10.51.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rules: AGD Regulation 7A-1(C), After Hours, filed 9-25-90; and AGD Regulation 7A-16, Sales to Intoxicated Persons, filed 9-25-90.

[3/31/97; 7/15/99; 15.10.51.5 NMAC - Rn, 15 NMAC 10.5.1.5, 10/15/06]

[Note: The words, *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets

15.10.51.6 OBJECTIVE: These regulations are intended to establish standards by which licensees may sell and serve alcoholic beverages under the Liquor Control Act.

[3/31/97; 7/15/99; 15.10.51.6 NMAC - Rn, 15 NMAC 10.5.1.6, 10/15/06]

15.10.51.7 DEFINITIONS: Unless otherwise defined in 15.10.2 NMAC, terms used in these regulations have the same meanings as set forth in the Liquor Control Act:

A. this section [subsection] has been moved and renumbered to Subsection A of 15.10.2.7 NMAC;

B. this paragraph [subsection] has been moved and renumbered to Subsection D of 15.10.2.7 NMAC;

C. this paragraph [subsection] has been moved and renumbered to Subsection G of 15.10.2.7 NMAC.

[3/3/97; 7/15/99; 2/29/00; 15.10.51.7 NMAC - Rn, 15 NMAC 10.5.1.7, 10/15/06]

15.10.51.8 SALES FROM LICENSED PREMISES ONLY: (The section on open container restrictions has been renumbered to 15.10.51.9 NMAC.

[3/3/97; 2/29/00; 15.10.51.8 NMAC - Rn, 15 NMAC 10.5.1.8, 10/15/06]

15.10.51.9 OPEN CONTAINER RESTRICTIONS:

A. No one shall provide a person with an open container of an alcoholic beverage for consumption off the licensed premises or permit removal of an open container from the licensed premises.

B. No person shall remove an open container of an alcoholic beverage from a licensed premise.

[3/31/97; 7/15/99; 2/29/00; 15.10.51.9 NMAC - Rn, 15 NMAC 10.5.1.9, 10/15/06]

[Operation and Profiting by Authorized Persons was moved and renumbered to 15.10.70 NMAC

15.10.51.10 AFTER HOURS:

A. Licensees may not sell, serve or allow the consumption of alcoholic beverages on the licensed premises except during the hours permitted by the Liquor Control Act.

B. Nothing herein is intended to prohibit any licensee from opening after 7:00 a.m. on any day when the sale of alcoholic beverages is not prohibited.

C. A licensee whose primary business activity on the licensed premises is the sale of alcoholic beverages for consumption on the licensed premises may not open the licensed premises to the public or to club members for any purpose or business after the lawful established closing times provided for in the Liquor Control Act, unless permitted by the director in writing.
[3/31/97; 7/15/99; 2/29/00; 15.10.51.10 NMAC - Rn, 15 NMAC 10.5.1.10, 10/15/06]

15.10.51.11 SALES TO INTOXICATED PERSONS:

A. No licensee shall sell, serve, procure or aid in the procurement of alcoholic beverages to an intoxicated person if the licensee knows or has reason to know that the person is obviously intoxicated. In addition to other commonly recognized tests of intoxication, a blood alcohol content level of .14 or higher on breath or blood test taken not more than one and one-half hour or ninety minutes after sale, service or consumption of alcoholic beverages shall be presumptive evidence that the person was intoxicated at the time of the last sale. For purposes of this rule, a "sale" shall mean the time at which the person actually paid for the last alcoholic beverage served by the licensee to the intoxicated person.

B. No licensee, agent, lessee or employee of the licensee shall consume alcoholic beverages while on duty or be present on the licensed premises while intoxicated with the following exceptions:

(1) owners, employees, licensed wholesalers and licensed retailers may drink alcoholic beverages on the licensed premises before business hours for product training and evaluation purposes but must not become impaired; and

(2) only the licensee, lessee or a designated manager may drink alcoholic beverages during business hours to evaluate beverage quality but must not become impaired.

C. The following practices are prohibited on a licensed premises:

(1) games or contests that involve drinking alcoholic beverages or the awarding of alcoholic beverage drinks as prizes;

(2) the sale or delivery to a person of an unlimited number of alcoholic beverage drinks during any set period of time for a fixed price;

(3) the sale or delivery of two or more alcoholic beverage drinks for the price of one;

(4) allowing any person to have more than two unconsumed alcoholic beverage drinks at any one time;

(5) the sale or delivery of alcoholic beverages by the drink for less than half the usual, customary, or established price for a drink of that type on the licensed premises;

(6) the sale or delivery of alcoholic beverages by the drink for less than cost; or

(7) the advertising of the practices prohibited by this regulation.

D. Nothing contained in this regulation shall prohibit a licensee from:

(1) including one alcoholic beverage drink per person as part of a meal package when approved by the director in writing;

(2) selling wine by the bottle or carafe, or beer in a pitcher, when sold with a meal;

(3) selling wine by the bottle or carafe, or beer in a pitcher, to more than one person;

(4) offering free samples or tastes of alcoholic beverages in quantities of 1.5 ounce or less if the product is wine, beer, or a beverage containing alcohol and at least one other ingredient, or .5 ounce or less if the product is undiluted spiritous liquors, when done to promote a product;

(5) offering free alcoholic beverage drinks to registered guests in its hotel when approved by the director in writing; or

(6) utilizing a "free drink coupon" which is limited to one drink per day per patron or giving a patron a free drink as a gesture of good will or friendship; free drinks as a gesture of good will or friendship may not be advertised and may not be given at any established interval or based on the purchases by the customer;

(7) offering to customers product promotions such as sweepstakes, rebates on non-alcoholic beverage items, or goods that are not or do not include alcoholic beverages.

[3/31/97; 7/15/99; 2/29/00; 15.10.51.11 NMAC - Rn, 15 NMAC 10.5.1.11 & A, 10/15/06]

15.10.51.12 PRIVATE PARTIES ON LICENSED PREMISES:

A. A licensee may allow a private party at which the host provides his own alcoholic beverages to be held on the licensed premises.

B. If the host provides his own alcoholic beverages, no alcoholic beverages may be sold to any guest at the private party. The alcoholic beverages must be served to the guests by persons who hold valid current server permits.

C. If the private party is held during hours that the licensed premises is open to the public, the area where the private party is to be held must be closed to the public and security provided to prevent persons without invitations from entering.

D. Private parties must be held on days and at times during which the licensee is authorized to sell or serve alcoholic beverages.

E. A licensee may receive alcoholic beverages donated by a licensed New Mexico wholesaler to the host of the private party and may serve the donated alcoholic beverages at a private party if the wholesaler provides the licensee with an invoice for the donated alcoholic beverages.

[3/31/97; 7/15/99; 7/15/99; 2/29/00; 15.10.51.12 NMAC - Rn, 15 NMAC 10.5.1.12, 10/15/06]

HISTORY OF 15.10.51 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records, state records center and archives under:

ABC Regulation No. 6A-2 through 6A-5, Sales from Designated Premises Only--Delivery Service Regulation No. 6A-2 through 6A-5, Interpreting and Exemplifying Section 60-6A-2 through 60-6A-5 NMSA 1978 (1981 and 1984 Supp.), filed 3/26/85;

AGD 6A-2, Sales from Licensed Premises Only, filed 9/25/90;

ABC Regulation No. 6A-7.(A), Shipping Invoices Regulation 6A-7.(A) Interpreting and Exemplifying Section 60-6A-7 NMSA 1978 (1981 and 1984 Supp.), filed 11/4/85;

AGD Regulation 6A-7, Shipping Invoices, filed 9/25/90;

AGD Regulation 7A-1(C), After Hours, filed 9/25/90;

ABC Regulation No. 7A-16.(A), Sales to Intoxicated Persons Regulation 7A-16(A), Interpreting and Exemplifying Section 60-7A-16 NMSA 1978 (1981-1984 Supp.), filed 11/4/85; and

AGD 7A-16, Sales to Intoxicated Persons, filed 9/25/90.

History of Repealed Material:

AGD Regulation 6A-7, Shipping Invoices (filed 9/25/90) repealed 3/31/97.

Other History:

AGD 6A-2, Sales from Licensed Premises Only (filed 9/25/90); AGD 6A-7, Shipping Invoices (filed 9/25/90); AGD-7A-1(C) (filed 9/25/90); AGD-7A-16, Sales to Intoxiated Persons (filed 9/25/90); and AGD-7B-6, Defense to Sale to Minor (filed 9/25/90) were all renumbered, reformatted, amended, and replaced by 15 NMAC 10.5.1, Restrictions on Sales, effective 3/31/97.

15 NMAC 10.5.1, Restrictions on Sales (filed 3/14/97) was renumbered, reformatted, amended and replaced by 15.10.51 NMAC, Restrictions on Sales, effective 10/15/06.

This rule was filed as 15 NMAC 10.5.2.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 52 SEGREGATED ALCOHOL SALES

15.10.52.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; Recompiled 12/31/01]

15.10.52.2 SCOPE: These regulations apply to all licensees under the New Mexico Liquor Control Act.

[3/31/97; Recompiled 12/31/01]

15.10.52.3 STATUTORY AUTHORITY: Sections 9-16-6(D) NMSA 1978 and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act. In addition, Section 60-6B-19 NMSA 1978 requires that the director develop procedures, by promulgation of a regulation, for segregated alcoholic beverage sales by retailer and dispenser licenses who sell alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises and whose alcoholic beverage sales are less than 60 percent of the total sales of the retailer or the dispenser.

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

15.10.52.4 DURATION: Permanent

[3/31/97; Recompiled 12/31/01]

15.10.52.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rule: AGD Regulation 6B-19, Segregated Alcohol Sales, filed 12/20/93. Those paragraphs retain their original effective dates.

[3/31/97; Recompiled 12/31/01]

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections in the history notes appearing in brackets.]

15.10.52.6 OBJECTIVE: These regulations are intended to comply with Section 60-6B-19 NMSA 1978 of the Liquor Control Act by creating procedures and requirements for segregated alcohol sales applicable to two different classes of licensed premises based on the size of the establishment.

[3/31/97; Recompiled 12/31/01]

15.10.52.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act:

A. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.2 [now Subsection B of 15.10.2.7 NMAC].

B. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.12 [now Subsection L of 15.10.2.7 NMAC].

C. This paragraph been moved and renumbered to 15 NMAC 10.1.1.7.25 [now Subsection Y of 15.10.2.7 NMAC].

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

15.10.52.8 LARGE PREMISES LICENSEES:

A. Large premises licensees must consolidate all alcoholic beverages in an alcoholic beverage display area located within a clearly designated and marked area of the licensed premises. Alcoholic beverages may also be displayed or stored in small quantities in no more than two locations outside the designated alcoholic beverage display area provided that all display areas can be roped off, chained off, or covered during non-alcoholic sale hours or days. Signs saying "liquor department - no one under 21 unless accompanied by parent, legal guardian or adult spouse" must be conspicuously posted around the boundaries of the alcoholic beverage display area. Licensees must file floor plans with the

department showing the area where alcoholic beverages are displayed within the licensed premises, and will notify the department of any changes within 10 days.

B. An employee who is at least 21 years of age and has an alcohol server permit shall be responsible for the overall supervision of both the receiving and sale of alcoholic beverages, including supervision of the alcoholic beverage display area. The licensee shall designate employees within the licensed premises to serve in this capacity as part of their job description, and shall ensure that such a designated employee is on duty on the licensed premises during alcoholic beverage sale hours.

C. Small displays of chips, snacks, or similar items may be displayed for sale in the alcoholic beverage display area so long as those items are also available in other parts of the licensed premises outside the alcoholic beverage display area. Except for such small displays, displays of food or other merchandise that would require shoppers to enter the alcoholic beverage display area for food or other merchandise are not permitted.

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

15.10.52.9 SMALL PREMISES LICENSEES: Small premises licensees must use diligent, good faith efforts to consolidate alcoholic beverages within a clearly designated and marked alcoholic beverage display area of the licensed premises. Signs saying "liquor area - no one under 21 unless accompanied by parent, legal guardian or adult spouse" must be conspicuously posted around the boundaries of the alcoholic beverage display area. Alcoholic beverages may also be displayed outside the alcoholic beverage display area provided that all display areas can be roped off, chained off or covered during non-alcoholic sale hours or days.

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

15.10.52.10 SIGNS FOR DAYS WHEN SALES NOT PERMITTED: [RESERVED]

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

[This section has been moved and renumbered to 15 NMAC 11.1.1.13 [now 15.11.2.13 NMAC.]

HISTORY OF 15.10.52:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

AGD Regulation 6B-19, Segregated Alcohol Sales, filed 12/20/93.

History of Repealed Material [RESERVED]

This rule was filed as 15 NMAC 10.5.3.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 53 SALES - WHOLESALERS

15.10.53.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; Recompiled 12/31/01]

15.10.53.2 SCOPE: These regulations apply to all licensees under the New Mexico Liquor Control Act.

[3/31/97; Recompiled 12/31/01]

15.10.53.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

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

15.10.53.4 DURATION: Permanent

[3/31/97; Recompiled 12/31/01]

15.10.53.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rule: AGD Regulation 7A-9, Extension of Credit by Wholesalers, filed 9/25/90.

[3/31/97; Recompiled 12/31/01]

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections in the history notes appearing in brackets.]

15.10.53.6 OBJECTIVE: These regulations are intended to establish reporting, credit, and other requirements applicable to persons licensed as wholesalers under the Liquor Control Act.

[3/31/97; Recompiled 12/31/01]

15.10.53.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.

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

15.10.53.8 EXTENSION OF CREDIT:

A. If any invoice for alcoholic beverages sold to any licensee remains unpaid for more than 30 days the wholesaler may not sell alcoholic beverages to that licensee except on a cash basis.

B. Cash means a cash payment, a check, or electronic funds transfer, however, if a licensee tenders a check for a sale required to be cash under this regulation and that check is dishonored, the wholesaler may not accept any further checks from that licensee for sales required to be cash under this regulation for a period of three months from the date the check is dishonored. Wholesalers who accept checks in payment for alcoholic beverages must present the checks for payment in normal course of business.

C. A wholesaler may not use a promissory note or other similar obligation from a licensee as a device to avoid the credit prohibition set forth in the Liquor Control Act and this regulation. As long as a promissory note, or other similar obligation, remains outstanding for alcoholic beverages, the licensee must pay in cash.

[3/31/97; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.10.53.9 DONATIONS AND DISCOUNTS OF ALCOHOLIC BEVERAGES:

A. A licensed New Mexico wholesaler may donate alcoholic beverages or sell alcoholic beverages at a discount to licensees if the purpose of the donation or discount is not to induce the licensee to purchase alcoholic beverages from that wholesaler to the exclusion of another wholesaler. The licensee may sell or serve the donated or discounted alcoholic beverages to the public, or may give the donated or discounted alcoholic beverages away, in accordance with the provisions of the Liquor Control Act and these regulations.

B. The licensee may sell or serve the donated or discounted alcoholic beverages to the public, or may serve the donated or discounted alcoholic beverages at no charge, in accordance with the provisions of the Liquor Control Act and these regulations.

C. A licensed New Mexico wholesaler may donate alcoholic beverages to a non-licensee, but the non-licensee may not sell the donated alcoholic beverages under any circumstances.

D. Any delivery of donated or discounted alcoholic beverages by a licensed New Mexico wholesaler must be accompanied by an invoice indicating the licensee's name, d/b/a name, and license number, the amount and type of alcoholic beverages delivered, the market value of the delivered alcoholic beverages, the place where the alcoholic beverages were delivered, and the date. The invoice must show a sum due of zero for donated alcoholic beverages or the discounted amount of the purchase.

[7/15/99; 2/29/00; Recompiled 12/31/01]

HISTORY OF 15.10.53 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

AGD Regulation 7A-9, Extension of Credit by Wholesalers, filed 9/25/90.

History of Repealed Material: [RESERVED]

This rule was filed as 15 NMAC 10.5.4.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 54 SALES - CLUBS

15.10.54.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; Recompiled 12/31/01]

15.10.54.2 SCOPE: These regulations apply to all club licensees under the New Mexico Liquor Control Act.

[3/31/97; Recompiled 12/31/01]

15.10.54.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

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

15.10.54.4 DURATION: Permanent

[3/31/97; Recompiled 12/31/01]

15.10.54.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rule: AGD Regulation 7A-13, Sales by Clubs, filed 9-25-90.

[3/31/97; Recompiled 12/31/01]

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.10.54.6 OBJECTIVE: These regulations are intended to establish additional standards by which club licensees may sell and serve alcoholic beverages under the Liquor Control Act.

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

15.10.54.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act: This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.15 [now Subsection O of 15.10.2.7 NMAC]

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

15.10.54.8 SALES LIMITED TO MEMBERS AND GUESTS:

A. Whenever a member invites one or more bona fide guests to use the club's alcoholic beverage facilities, the club shall be responsible for identifying each bona fide guest and the club member responsible for such guest.

B. A member who has invited bona fide guests to use club facilities shall be present at all times while the guests are on the club premises. Except as otherwise permitted by law, no person other than the club members, bona fide guests, and club employees shall be allowed on any part of the licensed premises where alcoholic beverages are being sold, served, or consumed under the club license.

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

15.10.54.9 GAMES OF CHANCE:

A. A club holding a valid club license issued under the Liquor Control Act and a valid license issued under the Bingo and Raffle Act or a valid license issued under the Gaming Control Act, may not sell, serve, or allow the consumption of alcoholic beverages within the area of the licensed premises in which games of chance, as defined in the Bingo and Raffle Act or the Gaming Control Act and as authorized by a license issued pursuant to those acts, are being conducted. A club holding a valid club license issued under the Liquor Control Act and a valid license issued under the Bingo and Raffle Act or a valid license issued under the Gaming Control Act may conduct those games of chance authorized by its license or licenses, upon the licensed premises, subject to the following conditions:

(1) games of chance may be conducted in areas of the licensed premises that are physically segregated from areas in which alcoholic beverages are being sold, served, or consumed. The areas must be separated by walls or other physical obstructions limiting movement of members and their guests between the areas; and

(2) no alcohol may be sold, served, or consumed within the physical area in which games of chance are being conducted; and

(3) appropriate signs must be posted within the areas in which games of chance are being conducted advising members and their guests that alcoholic beverages may not be sold, served, or consumed within those areas; and

(4) members and their guests are prohibited from participating in games of chance in areas in which alcoholic beverages are being sold, served, or consumed.

B. Nothing in this regulation shall be construed to authorize any forms of gambling within any licensed premises other than the games of chance specifically provided herein and in accordance with the Bingo and Raffle Act or the Gaming Control Act.

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

15.10.54.10 FUND RAISING EVENTS: A club may allow its facilities, including its licensed premises, to be used by another non-profit organization for a fund raising event if the club submits an application on the form provided by the department not less than 10 days before the date of the proposed event and receives written approval for the event.

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

HISTORY OF 15.10.54 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 7A-13(B)(2)(A), Penalties for Violation of Section 60-7A-13(B)(2), Sales by Clubs, Interpreting and Exemplifying Section 60-7A-13(B)(2) NMSA 1978 (1981 and 1985 Supp.), filed 10/29/85;

ABC 7A-13(B)(2)(A), Penalties for Violation of Section 60-7A-13(B)(2) NMSA 1978, led 2/13/86; and AGD Regulation 7A-13, Sales by Clubs, filed 9/25/90.

History of Repealed Material: [RESERVED]

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 61 CITATIONS - FINES AND PENALTIES

15.10.61.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; 15.10.61.1 NMAC - Rn, 15 NMAC 10.6.1.1, 10/15/06]

15.10.61.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.

[3/31/97; 15.10.61.2 NMAC - Rn, 15 NMAC 10.6.1.2, 10/15/06]

15.10.61.3 STATUTORY AUTHORITY: Section 60-6C-4(M) NMSA 1978 of the Liquor Control Act authorizes the director to adopt reasonable regulations setting forth uniform standards of penalties with respect to fines and suspensions. More generally, Section 60-4B-5 NMSA 1978 of the Liquor Control Act authorizes the director to issue and file all regulations and orders necessary to implement and enforce the provisions of the Liquor Control Act. In addition, Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department.

[3/31/97; 7/15/99; 15.10.61.3 NMAC - Rn, 15 NMAC 10.6.1.3, 10/15/06]

15.10.61.4 DURATION: Permanent

[3/31/97; 15.10.61.4 NMAC - Rn, 15 NMAC 10.6.1.4, 10/15/06]

15.10.61.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rule: AGD Regulation 6C-9, Compromise, filed 9-25-90.

[3/31/97; 15.10.61.5 NMAC - Rn, 15 NMAC 10.6.1.5, 10/15/06]

[Note: The words, *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections in the history notes appearing in brackets.]

15.10.61.6 OBJECTIVE: These regulations set forth uniform standards for penalties which may be imposed by the superintendent of the regulation and licensing department or the superintendent's designee. This schedule of penalties will be used as a guide for the settlement of citations in those cases where a formal hearing is not requested and will also be followed generally in cases where a formal hearing is requested. These regulations are intended to comply with Section 60-6C-4(M) NMSA 1978 which requires the director (superintendent) to adopt reasonable regulations setting forth standards of penalties concerning penalties imposed by the director (superintendent). They are also intended to establish violation codes for consistent tracking within the alcohol and gaming department of the regulation and licensing department.

[3/31/97; 7/15/99; 2/29/00; 15.10.61.6 NMAC - Rn, 15 NMAC 10.6.1.6, 10/15/06]

15.10.61.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act. This paragraph 15 NMAC 10.6.1.7.1 has been moved and renumbered to 15 NMAC 10.1.1.7.20 [now Subsection T of 15.10.2.7 NMAC]

[3/31/97; 7/15/99; 15.10.61.7 NMAC - Rn, 15 NMAC 10.6.1.7, 10/15/06]

15.10.61.8 SCHEDULE OF PENALTIES:

A. **Violations involving sales to minors or intoxicated persons within a twelve (12) month period.**

Code	Description
90	Sale to intoxicated person
105	Sale to a minor

(1) The first offense will result in a fine ranging from \$1,000 to \$2,000 and suspension of all alcohol sales for one business day.

(2) The second offense will result in a fine ranging from \$2,000 to \$3,000 and suspension of all alcohol sales for seven business days.

(3) Three or more offenses shall result in a fine of \$10,000 and revocation of the liquor license.

B. Any combination of three offenses involving sales to minors and/or sales to intoxicated persons occurring within a twelve month period shall result in a fine of \$10,000 and revocation of the liquor license.

C. **Violations involving licensing issues:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines within the ranges shown below. Penalties may also include suspension or revocation of the liquor license.

Code	Description	Fine
117	more than one entity profiting	\$2,000 to \$10,000
118	unauthorized entity profiting or operating	\$1,500 to \$10,000
119	failure to report change of ownership or structure	\$250 to \$3,000
135	failure to renew license	\$500 to \$3,000
205	unauthorized transfer of a liquor license	\$3,000 to \$10,000
300	persons prohibited from holding a license	\$3,000 to \$10,000

D. **Illegal sale or possession of alcoholic beverages:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$500 to \$10,000. Penalties may also include suspension or revocation of the liquor license

Code Description
160 sale/possession - illegal

E. **Public nuisance violations:**

Code Description
125 public nuisance

(1) Penalties imposed for public nuisance violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include the administrative fines and penalties shown below.

(2) The first offense will result in a fine of \$2000. A plan of correction of the violations, including timetables for such correction, must be agreed to by the parties within 30 days after the Department receives the citation, or the citation will be referred to a formal hearing.

(3) Failure to correct the violations as agreed will result in an additional fine of \$3000 and immediate suspension of the license until the corrections are completed.

(4) The second offense within a 24-month period will result in a fine of \$4000. A plan of correction of the violations, including timetables for such correction, must be agreed to by the parties within 30 days after the department receives the citation, or the citation will be referred to a formal hearing. After the plan of correction is agreed to, the license will be immediately suspended until completion of the corrections.

(5) The third offense in a 36-month period will result in revocation of the license.

F. **Violations involving commercial gambling:** Penalties imposed for commercial gambling violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include the administrative fines shown below. Penalties may also include suspension or revocation of the liquor license.

Code Description
40 commercial gambling

(1) The first offense will result in a fine of \$3,000.

(2) The second offense will result in a fine of \$4,000.

(3) The third offense will result in a fine of \$5,000.

(4) Four or more offenses will result in a fine of \$10,000.

G. **Violations involving club sales provision:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$500 to \$5,000. Penalties may also include suspension or revocation of the liquor license.

Code	Description
35	liquor sales to non-members
37	other violations of club sales restrictions

H. **Violations involving other licensing, sales and service matter:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$500 to \$5,000. Penalties may also include suspension or revocation of the liquor license.

Code	Description
1	unauthorized package sale
2	unauthorized sunday sale by drink
3	unattended alcoholic beverages
27	purchase from other than a wholesaler
28	alcohol server training program - failure to complete
29	alcohol server training certification - failure to renew
45	removal of open container from licensed premises
66	violation of restaurant license restriction
80	employing an underage person
87	dispenser, drink or price violation
107	minor in possession/consuming
110	minor in restricted area of premises
120	operating hours - improper or illegal
145	unauthorized sale by the drink
146	filling of bottles
155	sale from other than designated premises
157	change of floor plan without approval
180	special dispenser's permit violation
185	unauthorized sunday sale - package
195	failure to obtain sunday sales permit
215	violation of wholesaler license restriction
301	obstruction of the administration of the liquor control act
302	private party violation

I. **Miscellaneous violations of the liquor control act or regulations:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$250 to \$3,000. Penalties may also include suspension or revocation of the liquor license.

Code	Description
5	advertising - illegal
10	agency responsibility/authority
25	failure to engage in business
26	failure to suspend license
50	unauthorized display of copy/facsimile of license
100	improper lighting of premises
116	unauthorized change of dba name
175	sanitation violation
303	beer keg labeling violation
304	unauthorized change of corporate name
314	required documents on licensed premises

J. **Other violations not specifically listed:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and may include administrative fines and/or suspension or revocation of the liquor license.

Code	Description
999	miscellaneous

K. **Violations involving providers:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines up to \$500.

Code	Description
305	failure to notify of sale, right to own, teach, or use of program to any person
306	providing false information regarding certified program completion
307	failure to conduct the program as certified by the department
308	filing an application for certification of a provider, instructor, or program with false information
310	failure to comply with provisions of alcohol server education article or regulations promulgated thereunder

L. **Violations involving servers:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case unless enhanced.

(1) Failure to have server permit in possession (code 311). Fine up to \$250, suspension up to 14 consecutive days, or both.

(2) Serving alcoholic beverages without a valid, current server permit (code 312). Fine up to \$500.

(3) Sale to minor or intoxicated person (code 313):

(a) the first offense may result in a fine of up to \$500, a 30-day suspension, or both;

(b) the second offense may result in a fine of up to \$500, a 1 year suspension, or both;

(c) the third offense may result in a fine, suspension, or revocation.

M. **Violations of the alcohol server education article involving licensees:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case unless enhanced.

Code	Description
316	Employing a person without a server permit up to \$500
317	failure to maintain copies of server permits on the licensed premises: \$20 per permit
318	failure to produce a copy of an employee's server permit: \$20 per permit
319	Permitting a person with a suspended or revoked permit to serve alcoholic beverages: up to \$500

N. **Suspension of alcoholic beverage sales:**

(1) When suspension of alcoholic beverage sales is a penalty for violation of the Liquor Control Act, suspension will be addressed as follows:

(a) for a one-day suspension, the licensee will be required to suspend alcohol sales on the same day of the week that the violation occurred; for example, if the violation occurred on a Thursday, the suspension day will be a Thursday;

(b) for a suspension of more than one day, the licensee will be required to suspend alcohol sales for consecutive days, beginning on the same day of the week that the violation occurred.

(2) If the penalty for a violation is suspension, no fine is payable in lieu of suspension.

(3) Signs provided by the department must be posted on all cash registers and entrances to the restricted area on days that alcohol sales are suspended because of violations of the Liquor Control Act. [3/31/97; 7/15/99; 2/29/00; 15.10.61.8 NMAC - Rn, 15 NMAC 10.6.1.8 & A, 10/15/06]

15.10.61.9 ENHANCEMENT OF SCHEDULED PENALTIES: The director may increase any penalty set forth in these regulations if the facts and circumstances warrant enhancement of the penalties, as determined by the director.

[3/31/97; 7/15/99; 2/29/00; 15.10.61.9 NMAC - Rn, 15 NMAC 10.6.1.9, 10/15/06]

15.10.61.10 COMPROMISE:

A. Whenever probable cause exists that a licensee has violated a provision of the Liquor Control Act or department regulations, a citation may be issued to the licensee for such violation. The director or the director's designated employee may hold a conference with the licensee to determine whether a compromise of the penalty for the violation would be in the best interests of the state.

B. When a citation is issued at the licensed premises, a copy of the citation may be provided to the licensee, or the resident agent, or given to an employee who indicates he is in charge, or, if no such employee is in charge, to any employee. Providing an employee with the citation shall be considered the same as giving it to the licensee. Citations may be mailed to the licensee.

C. A copy of the citation shall be filed in the department.

D. The fines and suspension which the director or the director's designated employee may impose shall not exceed those which could be imposed after hearing.

E. The director or the director's designated employee may suspend any portion of the fine imposed.

[3/31/97; 7/15/99; 15.10.61.10 NMAC - Rn, 15 NMAC 10.6.1.10, 10/15/06]

HISTORY OF 15.1.61 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records, state records center and archives under:

ABC Regulation 6C-9, Penalty Compromise Regulation 6C-9, Interpreting and Exemplifying Section 60-6C-9 NMSA 1978, filed 8/13/82;

ABC Regulation No. 6C-9, Penalty Compromise Regulation 6C-9, Interpreting and Exemplifying Section 60-6C-9 NMSA 1978, filed 4/19/84;

ABC Regulation No. 6C-9(A), Penalty Compromise Regulation 6C-9(A), Interpreting and Exemplifying Section 60-6C-9 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD Regulation 6C-9, Compromise, filed 9/25/90;

ABC Regulation No. 6C-1(3). (A), Public Nuisances Regulation 6C-1(3).(A), Interpreting and Exemplifying Section 60-6C-1(3) NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD 6C-1, Public Nuisances, filed 9/25/90.

History of Repealed Material: [RESERVED]

Other History:

AGD 6C-1, Public Nuisances (filed 9/25/90) and AGD Regulation 6C-9, Compromise (filed 9/25/90) were both renumbered, reformatted, amended and replaced by 15 NMAC 10.6.1, Citations - Fines and Penalties, effective 3/31/97.

15 NMAC 10.6.1, Citations - Fines and Penalties (filed 3/14/97), was renumbered, reformatted, amended and replaced by 15.10.61 NMAC, Citation - Fines and Penalties, effective 10/15/06.

Public Nuisances (filed 9/25/90) and AGD Regulation 6C-9, Compromise (filed 9/25/90) were both renumbered, reformatted, amended and replaced by 15 NMAC 10.6.1, Citations - Fines and Penalties, effective 3/31/97.

15 NMAC 10.6.1, Citations - Fines and Penalties (filed 3/14/97), was renumbered, reformatted, amended and replaced by 15.10.61 NMAC, Citation - Fines and Penalties, effective 10/15/06.

This rule was filed as 15 NMAC 10.7.

TITLE 15 GAMBLING AND LIQUOR CONTROL

CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS

PART 70 OPERATION AND PROFITING BY AUTHORIZED PERSONS

15.10.70.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

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

15.10.70.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.

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

15.10.70.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

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

15.10.70.4 DURATION: Permanent

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

15.10.70.5 EFFECTIVE DATE: July 15, 1999, unless a later date is cited at the end of a section or paragraph. Portions of certain paragraphs remain unchanged from the following rules: 15 NMAC 10.5.1.9 [now 15.10.51.9 NMAC], operation and profiting by authorized persons, filed 3/31/97; and 15 NMAC 11.2.1.9.11 [now Subsection K of 15.11.21.9 NMAC], resident agent designation; agent lessee designation, filed 3/31/97.

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

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections in the history notes appearing in brackets.]

15.10.70.6 OBJECTIVE: This regulation is intended to establish standards by which licensees may sell alcoholic beverages under the Liquor Control Act.

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

15.10.70.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.

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

15.10.70.8 OPERATION AND PROFITING BY AUTHORIZED PERSONS:

A. No person other than the approved operator or employees of the approved operator, shall sell or serve alcoholic beverages at the licensed premises. Only the approved operator shall directly profit from the sale of alcoholic beverages pursuant to the license.

(1) All orders, sales, service, dispensing, and receipt of payment for alcoholic beverages must be done by the approved operator or employees of the approved operator.

(2) Sales of alcoholic beverages by an approved operator may not be combined with any sales of another person or entity that is not an approved operator.

B. A person directly profits from the sale of alcoholic beverages in violation of this regulation when any person other than the approved operator receives any portion of the profits earned, or receipts, from the sale of alcoholic beverages, except for:

(1) the payment of rent for the licensed premises based in whole or in part on a percentage of the licensee's gross sales;

(2) the payment to employees of incentive compensation based upon a percentage of gross sales;

(3) revenues received by an affiliate of the licensee from the sale of products other than alcoholic beverages on the licensed premises; or

(4) revenue from the sale of alcoholic beverages by an employee of an affiliate of the licensee when combined with the sales of other products when performed on the licensed premises. Each affiliate must be disclosed to the department and specifically approved by the director in writing as an affiliate.

C. It is a violation of the Liquor Control Act for any licensee to divide, split, or in any way share the right to sell alcoholic beverages, with any person not named as a licensee on the license.

D. The director may, upon 30 days' written notice to a licensee, require the licensee to demonstrate compliance with this regulation. Failure to demonstrate compliance will result in initiation of proceedings against the licensee by the director, pursuant to Section 60-6C-1 NMSA 1978 et seq. Evidence of compliance will be provided as follows:

(1) proof that all employees are paid by the approved operator or that the employees are providing such services as bona fide volunteers, consisting of copies of canceled paychecks or equivalent documents for the most recent three-month period; and

(2) proof that receipts of the licensed business are deposited directly into a bank account in the sole name of the approved operator, consisting of copies of bank records showing deposits and the name of the approved operator and signatories on the account; and

(3) proof of operation by the approved operator, consisting of copies of all real estate lease agreements, concession agreements, management agreements, or contracts of any kind to which the approved operator is a party with other persons for operation or profit-sharing in the operation; and

(4) proof that receipts of the business are not shared with non-licensed parties, consisting of copies of all canceled checks for the most recent three-month period with explanations of payments to persons other than suppliers, the approved operator, or employees of the approved operator.

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

HISTORY OF 15.10.70 NMAC: [RESERVED]

This rule was filed as 15 NMAC 11.1.1.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 2 REQUIRED DOCUMENTS ON LICENSED PREMISES

15.11.2.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.11.2.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.2.3 AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.2.4 DURATION: Permanent.
[3/31/97; Recompiled 12/31/01]

15.11.2.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997.
[3/31/97; 7/15/99; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.11.2.6 OBJECTIVE: This regulation is intended to establish requirements for the display of all licenses obtained under the Liquor Control Act, and other information that may be necessary to determine compliance with the provisions of the Liquor Control Act and its accompanying regulations.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.2.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.2.8 DISPLAY OF LICENSE: The current liquor license and any resident agent's license shall be prominently displayed within the licensed premises so that it is in full public view at all times. A copy or facsimile of the license may be displayed only for 30 days or until the original license is received by the licensee, whichever occurs first, provided that the copy or facsimile is of the original, current and duly issued license.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.2.9 LIQUOR LICENSE APPLICATION: All licensees shall keep on the licensed premises, for inspection by the department, a completed copy of the latest "application for liquor license" on file with the department, and a copy of any approved premises change, approved fictitious name, or changes in structure.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.2.10 POSTERS:

A. Licensees shall display the following posters in full public view within the licensed premises. The director will prescribe the forms and sizes of the posters and will make copies available to all licensees:

- (1) posters giving notice the law prohibits the carrying of any operative firearm on a licensed premises;
- (2) posters warning of the dangers of drinking alcoholic beverages during pregnancy;
- (3) posters identifying areas of the licensed premises in which minors are prohibited, unless accompanied by a parent, adult spouse or legal guardian; and
- (4) posters warning of the dangers of, and penalties for, driving while intoxicated.

B. Licensees may, with the director's prior approval, develop and use posters of their own design that contain the same information required in this sections. Any such posters shall be valid only if bearing the director's stamp of approval.

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

15.11.2.11 STATUTES AND REGULATIONS: All licensees shall keep on the licensed premises a copy of the most current versions of the Liquor Control Act, including the alcohol server education article and the regulations promulgated there under.

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

15.11.2.12 INVOICES: All licensees shall keep on the licensed premises copies of all invoices received from all suppliers of all inventory on the licensed premises.

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

15.11.2.13 SIGNS FOR DAYS WHEN SALES NOT PERMITTED: All licensees will clearly mark alcoholic beverage display areas with signs that prominently read "no package alcoholic beverage sales permitted on Sunday" if the licensee does not have a Sunday sales permit, or "no package alcoholic beverage sales permitted on Christmas Day" on the appropriate days.

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

HISTORY OF 15.11.2 NMAC:

Pre-NMAC Regulatory Filing History: The material in this subpart was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 3A-2(C), Display of License Regulation 3A-2(C), Interpreting and Exemplifying Section 60-3A-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD Regulation 3A-2(C), Display of License, filed 9/25/90;

ABC Regulation No. 3A-2(C), Display of License Regulation 3A-2(C), Interpreting and Exemplifying Section 60-3A-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD Regulation 3A-2(C), Display of License, filed 9/25/90;

AGD Regulation 4B-5(A), Forms, filed 9/25/90;

ABC Regulation No. 3A-2.(H), Firearm Poster Requirement Regulation 3A-2.(H), Interpreting and Exemplifying Section 60-3A-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD 3A-2(F), Firearm Poster Requirement, filed 9/25/90; and

AGD Regulation 6B-2(A), License Application, filed 9/25/90.

History of Repealed Material: [RESERVED]

This rule was filed as 15 NMAC 11.2.1.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 21 LICENSES AND PERMITS - APPLICATIONS

15.11.21.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.11.21.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.21.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.21.4 DURATION: Permanent
[3/31/97; Recompiled 12/31/01]

15.11.21.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. promulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rules: AGD Regulation 6B-2(B), Completion of Application, filed 9/25/90; and AGD Regulation 6B-2(F), Disclosure of Ownership, filed 9/25/90.
[3/31/97; 7/15/99; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.11.21.6 OBJECTIVE: This rule is intended to establish standards for the application and issuance of licenses under the Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.21.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act:

- A. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.13 [now Subsection M of 15.10.2.7 NMAC].
- B. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.17. [now Subsection Q of 15.10.2.7 NMAC].
- C. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.24. [now Subsection X of 15.10.2.7 NMAC].

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

15.11.21.8 LICENSE APPLICATION:

- A. The director is authorized to prescribe all forms called for or required by the Liquor Control Act or these regulations. All filings with the department shall be accompanied by such affidavits, documents, and other supporting data as the director shall require.
- B. All documents, records, affidavits, supporting data or information requested by the department with regard to any application shall be furnished within thirty (30) days from the date requested by the department, or the application may be disapproved, unless good cause is shown.
- C. All applications for liquor licenses shall be made on the forms prescribed by the department.

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

15.11.21.9 RESIDENT AGENT DESIGNATION:

A. Every licensee that is a corporation shall designate a “resident agent” to accept service of all orders and notices of the department. The resident agent shall exercise full authority, control and responsibility for the conduct of all alcoholic beverage transactions of the licensee. The resident agent must be an employee of the licensee and a resident of the state of New Mexico.

B. To designate a resident agent, a licensee shall file, with the department, an application on department forms. The designation of resident agent may be terminated upon written notification to the department by either the licensee or the resident agent. The termination of the employment relationship between the resident agent and the licensee shall automatically terminate the resident agent relationship. A licensee shall have 10 days from the date of termination of the agency relationship to file an application for a new resident agent. Any application filed more than 10 days from the date of termination of the resident agent shall be accompanied by an additional fee of \$100.

C. A licensee may designate as many resident agents as it deems necessary for the operation of the business.

D. The department will not approve the designation of any person as resident agent who does not possess the same qualifications required of persons to obtain a license under the Liquor Control Act.

E. The application fee for designation of each resident agent shall be \$50.

F. The designation of a resident agent shall not relieve the licensee of any responsibilities or liabilities to the department for violations or compliance with the Liquor Control Act.

G. This paragraph has been moved and renumbered to 15 NMAC 11.2.1.13.4 [now Subsection D of 15.11.21.13 NMAC].

H. This paragraph has been moved and renumbered to 15 NMAC 11.2.1.9.4 [now Subsection D of 15.11.21.9 NMAC].

I. Portions of this paragraph have been moved and renumbered to 15 NMAC 11.2.1.9.5 and 15 NMAC 11.2.1.13.6 [now Subsection E of 15.11.21.9 NMAC and Subsection F of 15.11.21.13 NMAC].

J. This paragraph has been moved and renumbered to 15 NMAC 11.2.1.9.6 [now Subsection F of 15.11.21.9 NMAC].

K. This paragraph has been moved and renumbered to 15 NMAC 10.7.8.3 [now Subsection C of 15.10.70.8 NMAC].

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

15.11.21.10 DISCLOSURE OF OWNERSHIP:

A. Applicants must fully disclose all ownership interest in the liquor license upon application for a liquor license, or for transfer of ownership of a liquor license, or for change in structure, on page 4 of the application for liquor license.

B. The following shall be fully disclosed in writing to the department:

(1) if the licensee is a corporation or limited liability company, the officers, directors and each stockholder owning more than 10 percent of the stock in the corporation, or the manager or members owning more than 10 percent of the membership interests in the limited liability company. However, in the case of a publicly traded corporation, only the names and addresses of those stockholders known to the corporation to own 10 percent or more of such securities need be disclosed;

(2) if the licensee is a trust, the trustee and any persons entitled to receive income or benefit from the trust;

(3) if the licensee is an association, all officers and directors;

(4) if the licensee is a subsidiary, all officers, directors and stockholders of the parent; however, in the case of a publicly traded corporation, only the names and addresses of those stockholders known to the corporation to own 10 percent or more of such securities need be disclosed;

(5) if the licensee is a partnership or joint venture, all of the general partners, limited partners or joint venturers;

(6) if the parent company, general partner, limited partner or joint venturer of any licensee is itself a corporation, limited liability company, trust, association, subsidiary, partnership or joint venture, then all of the information required shall be disclosed for the entity as if it were itself a licensee, so that full disclosure of ultimate ownership is achieved;

(7) if one person owns interests in a corporation, limited liability company, partnership, trust, joint venture or as an individual, in any combination, that add up to 10 percent or more of the total ownership of the license.

C. If any person or entity required to be disclosed has been convicted of a felony in any jurisdiction, it shall be disclosed.

D. If there is a change in any of the information required to be disclosed by the act or these regulations, the licensee shall provide the necessary information to the department within 30 days of the change unless earlier disclosure and/or approval is required by the act or these regulations.

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

15.11.21.11 FINGERPRINTS:

A. Unless otherwise determined by the director, a licensee is not required to submit new fingerprint cards when an application is filed for any of the following reasons:

- (1) to add a licensee's spouse to the license; however, the spouse must submit fingerprints;
- (2) when a husband and wife are the licensees, to transfer the ownership interest of a deceased licensee to his or her surviving spouse; however, if any part of the interest of the deceased spouse goes to any person other than the surviving spouse, that person must submit fingerprints;
- (3) by a licensee to obtain an ownership interest in an additional license or to lease another license; provided, however, that satisfactory fingerprints must have been submitted by the licensee within the three years preceding the application.

B. Fingerprint cards will not be accepted unless the fingerprints were taken:

(1) under the supervision of, and certified by a New Mexico state police officer, a county sheriff or a municipal chief of police, or, if a nonresident, under the supervision and certification of comparable officers in the applicant's state of residence; or

(2) in the discretion of the department, by a private agency qualified to take and certify fingerprints, provided the private agency submits to the department written authorization from any of the agencies referenced in Paragraph 11.2.1 [now Paragraph (1) of Subsection B] above.

C. When an applicant is a legal entity, other than a corporation with securities listed on a national stock exchange, all principal officers, directors, shareholders, partners and members of any other legal entity holding an indirect ownership interest in the applicant must submit fingerprints as if they were the applicant.

(1) Except as provided in 15 NMAC 11.2.1.11.5 [now Subsection E of 15.11.21.11 NMAC], if the applicant is a corporation, it shall file two complete sets of fingerprints for each stockholder holding 10 percent or more of the outstanding stock, principal officer, director and resident agent.

(2) If the applicant is a partnership, it shall file two complete sets of fingerprints for each general partner and for each limited partner contributing 10 percent or more of the total value of contributions made to the partnership or entitled to 10 percent or more of the profits earned or other compensation by way of income paid by the limited partnership.

(3) When an applicant is any legal entity other than a corporation or partnership, all shareholders, partners, or members contributing ten percent or more of the total value of contributions made to the entity or entitled to 10 percent or more of the profits earned by the entity, and all principal officers and directors, must submit two complete sets of fingerprints.

(4) When an applicant is any legal entity whose parent is any other legal entity holding an indirect ownership interest in the applicant, then two complete sets of fingerprints must be submitted for all the parent entity's shareholders, partners or members contributing 10 percent or more of the total value of contributions made to the entity or entitled to 10 percent or more of the profits earned by the entity, and all principal officers and directors.

D. Any applicant required to submit fingerprints must also submit a completed page 6 of the application for liquor license.

E. If the applicant is a publicly traded corporation, it must submit, in lieu of fingerprints and page 6 of the application for liquor license, an affidavit signed by the designated resident agent stating that no officer, director or stockholder who owns more than 10 percent of the corporation is a convicted felon.

[3/31/97; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.11.21.12 LICENSED PREMISES:

A. The applicant shall provide the department with proof of the applicant's right to real property where the license applied for is proposed to be operated.

- B. Floor plans for the licensed premises must be provided.
 - C. Floor plans must show:
 - (1) except as provided in (d) of this paragraph [now Paragraph (4) of Subsection C of 15.11.21.12 NMAC], every level of the licensed premises;
 - (2) except as provided in (d) of this paragraph [now Paragraph (4) of Subsection C of 15.11.21.12 NMAC], all areas where alcoholic beverages are sold, served or consumed;
 - (3) an exterior footprint of the licensed premises, including dimensions and total square footage;
 - (4) if the applicant is a hotel whose entire establishment will be the licensed premises, floor plans must be submitted for each floor where public rooms in which alcoholic beverages will be sold, served or consumed are located, clearly designating the public rooms.
- [7/15/97; 2/29/00; Recompiled 12/31/01]

15.11.21.13 LEASES OF LIQUOR LICENSES:

- A. A person who operates a liquor license under a lease agreement with the licensee must be a licensed “agent lessee”. The agent lessee compensates the licensee for use of the license and is entitled to all profits, and responsible for all losses, from the operation of the license.
 - B. To designate an agent lessee there shall be filed with the department such fees, forms, documents and information as are required by the department. The lease agreement must contain provisions that the license is leased in its entirety.
 - C. The designation of an agent lessee shall not require posting of the licensed premises or a hearing by the state or local governing body, if the license to be leased is located at the latest approved licensed premises for the license.
 - D. The designation of agent lessee may be terminated by mutual written agreement between the parties, by court order or in accordance with terms of the lease agreement.
 - E. The department will not approve the designation of any person as agent lessee who does not possess the same qualifications required of persons to obtain a license under the Liquor Control Act.
 - F. An application fee of \$250 will be paid for each designation of agent lessee.
 - G. The designation of an agent lessee shall not relieve the licensee of any responsibilities or liabilities to the department for violations or compliance with the Liquor Control Act.
 - H. A lease of a license will not be approved when the licensee 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 issued more than three months prior to the date of the lease application are unresolved at the time of filing the lease application, unless the licensee and the department are involved in a formal administrative or judicial resolution process.
- [7/15/99; 2/29/00; Recompiled 12/31/01]

HISTORY OF 15.11.21 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

- ABC Regulation No. 3A-2.(A), Agency Responsibility of License Regulation 3A-2.(A), Interpreting and Exemplifying Section 60-3A-2 NMSA 1978 (1981 and 1984 Supp.), filed 1/18/85;
- AGD 3A-2(A), Agency Responsibility of License, filed 9/25/90;
- ABC Regulation No. 6B-2.(C), Completion of Application Regulation 6B-2.(C), Interpreting and Exemplifying Section 60-6B-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;
- AGD 6B-2(B), Completion of Application, filed 9/25/90; AGD 6B-2(F), Disclosure of Ownership, filed 9/25/90;
- AGD 4B-5(A), Forms, filed 9/25/90.

History of Repealed Material:

AGD Regulation 6B-2(D), Random Drawing, filed with the State Records Center and Archives on 9/25/90, has been repealed.

This rule was filed as 15 NMAC 11.2.2.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 22 LICENSES AND PERMITS - RENEWAL AND SUSPENSION

15.11.22.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.11.22.2 SCOPE: These regulations apply to all licensees under the New Mexico Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.22.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.22.4 DURATION: Permanent
[3/31/97; Recompiled 12/31/01]

15.11.22.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. promulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, [sic]. Certain paragraphs within this subpart [now part] remain unchanged from the following rules: AGD Regulation 6B-7, Temporary Suspension, filed 9/25/90.
[3/31/97; 7/15/99; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.11.22.6 OBJECTIVE: These regulations are intended to establish standards for the renewal and suspension of licenses issued under the Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.22.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.22.8 RENEWAL OF LICENSE:

A. A complete renewal application and the payment of all applicable fees for renewal shall be filed with the department as follows:

(1) Retailer's and dispenser's license renewal applications must be filed on or before April 1 of each year.

(2) Wholesaler's, manufacturer's, restaurant and club license renewal applications must be filed on or before May 1 of each year.

(3) All other licenses, including nonresident, wine bottler's, public service, governmental, winegrower's, winer's, wine blender's, brandy manufacturer's, wine exporter's, small brewer's, beer bottler's and wine wholesaler's license renewal applications must be filed on or before June 1 of each year.

B. A renewed license will not 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 issued more than 3 months prior to the filing date for renewal applications are unresolved at the time of filing the renewal application, unless the licensee and the department are involved in a formal administrative or judicial resolution process.

C. All licensees who fail to renew their licenses or who are not issued a renewed license shall suspend all alcoholic beverage operations until such time as a renewed license is issued and displayed on the licensed premises. A temporary suspension must be obtained if the license ceases to operate for more than ten (10) consecutive days.

D. A license that is in litigation or bankruptcy at the time of renewal shall be renewed in the same manner as other licenses. Licenses shall be renewed in the name of the licensee shown on department records, regardless of who pays the renewal fee.

E. Any licensee that fails to apply for renewal of its license as required by the act and this regulation will be subject to the fines and penalties set forth in 15 NMAC 10.6.1 [now 15.10.61 NMAC].

F. The licensee shall provide the department with a current floor plan of the licensed premises within 30 days of the director's request.

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

15.11.22.9 LATE RENEWAL OF LICENSE: Any licensee who fails to submit a properly completed renewal application by the renewal deadline date must pay a late renewal fee in the amount of \$350 plus \$10 per day for each additional day the renewal application is late.

[3/31/97; Recompiled 12/31/01]

15.11.22.10 SUSPENSION:

A. Upon application to the department, licenses may be temporarily suspended from operation as provided in the Liquor Control Act.

B. All applications for a temporary suspension in the operation of the liquor license, together with a fee of \$20, must be filed with the department upon the cessation of business for more than 10 consecutive days. Any application which is filed after the cessation of business more than 10 days or after the expiration of a prior approved suspension, shall pay a fee of \$50.

C. No licensee shall resume operations until he has advised the department, in writing, of the date he will resume business, even if that date is the expiration of the temporary suspension.

[3/31/97; 7/15/99; 2/29/00; Recompiled 12/31/01]

HISTORY OF 15.11.22 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 6B-5(A), Renewals of Licenses Regulation 6B-5(A), Interpreting and Exemplifying Section 60-6B-5 NMSA 1978 (1981-1984 Supp.), filed 11/4-85;

ABC Regulation No. 6B-5(B), Renewal of Licenses Subject to Litigation Regulation 6B-5(B), Interpreting and Exemplifying Section 60-6B-5 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD Regulation 6B-5, Renewals of Licenses, filed 9/25/90; and

AGD Regulation 6B-7, Temporary Suspension, filed 9/25/90.

History of Repealed Material: [RESERVED]

This rule was filed as 15 NMAC 11.2.3.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 23 LICENSES AND PERMITS - CHANGE IN LICENSEE

15.11.23.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.11.23.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act, and to persons who obtain possession of a liquor license through death, foreclosure or bankruptcy.
[3/31/97; Recompiled 12/31/01]

15.11.23.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.23.4 DURATION: Permanent
[3/31/97; Recompiled 12/31/01]

15.11.23.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997.
[3/31/97; 7/15/99; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.11.23.6 OBJECTIVE: This rule is intended to establish criteria and procedures for reporting changes in ownership, structure, or name of a licensee, including changes resulting from death, foreclosure or bankruptcy of a licensee.
[3/31/97; Recompiled 12/31/01]

15.11.23.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.17 [now Subsection Q of 15.10.2.7 NMAC].
[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]

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 Section 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]

15.11.23.11 SERVER REPORTS: Licensees must submit reports quarterly to the department listing all servers employed by the licensee in the previous quarter.

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

HISTORY OF 15.11.23 NMAC:

Pre-NMAC History: The material in this subpart was derived from that previously filed with the State Records Center and Archives under:

AGD Regulation 6B-6(A), Change of Ownership of Corporate License, filed 9/25/90;

AGD Regulation 6B-6(B), Change of Ownership of Limited Partnership, filed 9/25/90;

AGD Regulation 6B-6(C), Change of Ownership, filed 9/25/90; and

AGD Regulation 6B-6(D), Corporation Name Change, filed 9/25/90.

History of Repealed Material: [RESERVED]

This rule was filed as 15 NMAC 11.2.4.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 24 LICENSES AND PERMITS - RESTAURANT LICENSE

15.11.24.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.11.24.2 SCOPE: These regulations apply to all restaurant licensees and applicants for restaurant licensure under the New Mexico Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.24.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act. In addition, Section 60-3A-3(S) NMSA 1978 of the Liquor Control Act authorizes the director to promulgate regulations excluding establishments from the definition of "restaurant".
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.24.4 DURATION: Permanent
[3/31/97; Recompiled 12/31/01]

15.11.24.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997.
[3/31/97; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.11.24.6 OBJECTIVE: These regulations are intended to establish additional standards applicable to persons obtaining restaurant licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.24.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.24.8 RESTAURANT LICENSE: This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.21 [now Subsection U of 15.10.2.7 NMAC].
[3/31/97; 7/15/99; Recompiled 12/31/01]

HISTORY OF 15.11.24 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
ABC Regulation No. 6A-4, Restaurant License Regulation 6A-4, Interpreting and Exemplifying Section 60-6A-4 NMSA 1978 (1981 Supp.), filed 12/3/81;
ABC Regulation No. 6A-4(A), Restaurant License Regulation 6A-4(A), Interpreting and Exemplifying Section 60-6A-4 NMSA 1978 (1981-1984 Supp.), filed 11/4/85; and
AGD 6A-4, Restaurant License, filed 9/25/90.

History of Repealed Material: [RESERVED]

This rule was filed as 15 NMAC 11.2.5.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 25 LICENSES AND PERMITS - SPECIAL DISPENSER AND SUNDAY SALES
PERMITS

15.11.25.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.11.25.2 SCOPE: These regulations apply to all licensees under the New Mexico Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.25.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.25.4 DURATION: Permanent.
[3/31/97; Recompiled 12/31/01]

15.11.25.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rules: AGD Regulation 6A-12, Special Dispenser's Permit, filed 9/25/90; and AGD Regulation 7A-1(B), Sunday Sales Permit, filed 9/25/90.
[3/31/97; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.11.25.6 OBJECTIVE: This regulation is intended to establish standard procedures for obtaining and operating special dispensers' permits and Sunday sales.
[3/31/97; Recompiled 12/31/01]

15.11.25.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.25.8 SPECIAL DISPENSER'S PERMIT:

A. A special dispenser's permit may be issued to the holder of a dispenser's license which is not in suspension for any reason on application submitted to the department within a time reasonably calculated to allow the department sufficient time to process the application prior to the public celebration or event to be catered by the licensee.

(1) Permits for applications received less than 7 days prior to June 30 for events to be held after July 1 will not be issued until after July 1 to ensure that the license has been renewed.

(2) Applications must have an original signature and be accompanied by the required fee and all required information before they will be processed. Incomplete applications will be returned to the applicant.

(3) Fees paid for an application that has been processed and a special dispenser's permit issued are not refundable if the event does not take place at the date and time for which the permit is issued.

B. For an event in a local option district in which Sunday sales of alcoholic beverages are not otherwise permitted, the application must be accompanied by the grant of concession from the body in charge of the public celebration or catered event.

C. The application for a special dispenser's permit must be accompanied by written permission from the governing body of the local option district where the public celebration or event to be catered is held.

D. The application must contain a drawing of the location of the celebration or event and the place where alcoholic beverages will be dispensed and consumed.

E. Special dispenser's permits will not be issued for more than three (3) consecutive days, unless the director shall find good cause to justify a longer period.

F. The application shall contain a statement of the number of people expected and the security which will be provided. If the director does not deem the security sufficient, the director may deny the permit.

G. The licensee must be the holder of a valid dispenser's license and authorized to sell or serve alcoholic beverages in the local option district where the public celebration or event to be catered is to be held.

H. No alcoholic beverages shall be sold or served in unbroken packages or for consumption off the area authorized by the special dispenser's permit.

I. Special dispenser's permits shall not be issued for an existing licensed premises unless the license on the licensed premises is in voluntary suspension or the director is satisfied the portion of the licensed premises covered by the special dispenser's permit can be separated to clearly identify and provide for two separate operations.

J. Special dispenser's permits shall not be issued to the holder of a rural dispenser's license for a function or event which is located within ten (10) miles of another licensed premises.

K. A copy of the special dispenser's permit and the posters required by 15 NMAC 11.1.1.10 [now 15.11.2.10 NMAC] must be prominently displayed at the bar station on the specially licensed premises.

L. No special dispenser's permit is required for a private party or for an event held off licensed premises at which no alcoholic beverages are sold.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.25.9 SUNDAY SALES PERMIT:

A. Any licensee, in a local option district which has approved Sunday sales by the drink, whose license authorizes the sale of alcoholic beverages by the drink, or any winer, or winegrower who desires to make lawful Sunday sales, shall pay an annual fee of \$100 and obtain a Sunday sales permit. The permit shall expire on June 30th of each year.

B. The ownership of a Sunday sales permit is not transferrable or assignable.
[3/31/97; Recompiled 12/31/01]

HISTORY OF 15.11.25 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
ABC Regulation No. 6A-12(A), Special Dispenser's Permit Regulation 6A-12(A), Interpreting and Exemplifying Section 60-6A-12 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;
AGD 6A-12, Special Dispenser's Permit, filed 9/25/90; and
AGD 7A-1(B), Sunday Sales Permit, filed 9/25/90.

History of Repealed Material: [RESERVED]

This rule was filed as 15 NMAC 11.2.6.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 26 LICENSES AND PERMITS - FEES

15.11.26.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.11.26.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.
[3/15/97; Recompiled 12/31/01]

15.11.26.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.26.4 DURATION: Permanent
[3/31/97; Recompiled 12/31/01]

15.11.26.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph.
[3/31/97; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections in the history notes appearing in brackets.]

15.11.26.6 OBJECTIVE: This regulation is intended to establish a uniform schedule of fees applicable to licenses issued under the Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.11.26.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.26.8 FEE SCHEDULE: In addition to the fees set forth in the act, the following application fees apply:

Type of Application	Fee
Renewal of license - late fee	\$ 350 plus \$10 for each additional day late
Change or expansion of licensed premises	75
Designation of agent lessee	250
Designation of resident agent (per agent)	50
New resident agent - late fee	100
Transfer of ownership license	150 for first license, plus 10 for each additional license
Change of structure license	150 for first license, plus 10 for each additional license
Corporate name change; Change in DBA	50
Temporary suspension of license	20
Temporary suspension of license - late application	50
Certification of alcohol server training program and annual renewal of program	350 per provider, plus 100 per instructor

[3/31/97; Recompiled 12/31/01]

HISTORY OF 15.11.26 NMAC: [RESERVED]

This rule was filed as 15 NMAC 11.2.7.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 27 LICENSES AND PERMITS - INTER-LOCAL OPTION DISTRICT TRANSFERS

15.11.27.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.

[3/31/97; Recompiled 12/31/01]

15.11.27.2 SCOPE: These regulations apply to all licensees and applicants for inter-local option district transfers under the New Mexico Liquor Control Act.

[3/31/97; Recompiled 12/31/01]

15.11.27.3 STATUTORY AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.

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

15.11.27.4 DURATION: Permanent

[3/31/97; Recompiled 12/31/01]

15.11.27.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph.

[3/31/97; Recompiled 12/31/01]

[Compiler's note: The words, *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections in the history notes appearing in brackets.]

15.11.27.6 OBJECTIVE: These regulations are intended to establish procedures for filing and processing applications for inter-local option district transfers.

[3/31/97; Recompiled 12/31/01]

15.11.27.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.

A. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.10 [now Subparagraph J of 15.10.2.7 NMAC].

B. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.18 [now Subparagraph R of 15.10.2.7 NMAC]

C. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.26 [now Subparagraph Z of 15.10.2.7 NMAC]

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

15.11.27.8 FILING PERIOD:

A. Applications for inter-local option district transfers will be accepted by the department only during the filing period each year for the next calendar year's transfers.

B. Any application received before 8:00 a.m. on October 1 will be returned with a letter requesting that the applicant resubmit the application during the appropriate filing period.

C. Any application received after the end of the filing period will be considered untimely and will be returned to the applicant.

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

15.11.27.9 PRIORITY:

A. All substantially complete applications submitted on October 1 after 8:00 a.m. and before 5:00 p.m., regardless of the time submitted, will be considered to have been received at the same time. If more than ten applications are received on that date, priority applications will be determined by random selection by the director by the applicant's name without reference to the contents of the application.

B. Remaining applications submitted on October 1, if more than one, will be selected for processing by random selection if one or more of the priority applications selected is withdrawn or disapproved.

[3/31/97; 2/29/00; Recompiled 12/31/01]

15.11.27.10 APPLICATION PROCESSING:

A. All substantially complete applications received shall be date and time stamped by the department. Applications that are not substantially complete will not be processed. Those applications will be returned to the applicants with letters advising the applicants of the deficiencies and requesting that they resubmit the applications for consideration when they are substantially complete.

B. Only priority applications will be processed for transfer during any calendar year.

C. Other substantially complete applications received beyond the priority applications will be date and time stamped and a record kept of their receipt. To avoid having to deposit the filing fees, the division will photocopy the applications and return them to the applicants with letters advising how many applications are being processed before theirs and that they will be notified if and when their applications will be considered. Those applications will be given first consideration if any of the priority applications is withdrawn or disapproved. Applications not considered or approved for one calendar year's transfers may not be resubmitted until the filing period for the next calendar year.

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

15.11.27.11 AMENDMENTS: All applications will be processed based on the information originally submitted. If an application is substantially changed at the request of the applicant, the application will be considered to have been withdrawn. Any application that is withdrawn must be resubmitted as required by this regulation and will lose any priority for processing it may have received when first filed. Substantial changes to an application include a change in transferee, which may include a change in more than ten percent stock ownership, a change in the named transferee, or a change in an officer or director. Substantial changes will also include any change in location or a substantial change to the floor plan and any other terms and conditions deemed substantial by the director.

[3/31/97; Recompiled 12/31/01]

HISTORY OF 15.11.27 NMAC: [RESERVED]

This rule was filed as 15 NMAC 11.3.1.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 31 ALCOHOL SERVER TRAINING - CERTIFICATION

15.11.31.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[7/1/97; Recompiled 12/31/01]

15.11.31.2 SCOPE: This regulation applies to all Liquor Control Act licensees, lessees, servers, and alcohol server training providers and instructors.
[7/1/97, 3/15/99; Recompiled 12/31/01]

15.11.31.3 STATUTORY AUTHORITY: Section 60-4B-5 NMSA 1978 of the Liquor Control Act authorizes the director to issue and file all regulations and orders necessary to implement and enforce the provisions of the Liquor Control Act. Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the division. The Alcohol Server Education Act, Chapter 60, Article 6D NMSA 1978, authorizes the director to adopt regulations related to alcohol server training.
[7/1/97; Recompiled 12/31/01]

15.11.31.4 DURATION: Permanent
[7/1/97; Recompiled 12/31/01]

15.11.31.5 EFFECTIVE DATE: July 1, 1997, unless a later date is cited at the end of a section or paragraph.
[7/1/97; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.11.31.6 OBJECTIVE: This regulation is intended to establish standards and procedures for training persons employed in the alcoholic beverage service industry to enhance their professionalism and to reduce the incidence of alcohol-related problems statewide, and to comply with the provisions of the Liquor Control Act and the Alcohol Server Education Article of the Liquor Control Act.
[7/1/97; 7/15/99; Recompiled 12/31/01]

15.11.31.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1[now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act and the Alcohol Server Education Act:

- A. [RESERVED]
- B. [RESERVED]
- C. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.3 [now Subsection C of 15.10.2.7 NMAC].
- D. [RESERVED]
- E. This paragraph has been moved and renumbered to 15 NMAC 10.1.1.7.11 [now Subsection K of 15.10.2.7 NMAC].
- F. [RESERVED]
- G. [RESERVED]

[7/1/97; 3/15/99; 7/15/99; Recompiled 12/31/01]

15.11.31.8 SERVER PERMITS: ISSUANCE, RENEWAL, REPLACEMENT:
A. Every licensee or lessee who is directly involved in sale or service of alcoholic beverages, and all servers must satisfactorily complete a program every five years.
B. Satisfactory completion of a program will be determined by the applicant's earning a score of 80 percent or higher on a test administered at the end of the program. Each applicant who

satisfactorily completes a program and provides any other information required by the department will receive a server permit from the department.

C. Within 10 business days of satisfactory completion of any program, the provider shall submit to the director an original server permit application for each applicant who satisfactorily completed the program, including their names, social security numbers, addresses, date of birth, and any other information required by the director. Server permit applications must be submitted on forms provided by the department. Server permits will be numbered sequentially to provide a unique number for each applicant who satisfactorily completes a program.

D. Providers may issue temporary server permits by recording the test grade on the server permit application and issuing the designated copy of the application to the applicant. The temporary server permit will be valid for 30 days from the date of issuance. Photocopies of the designated copy of the application may not be used by the server for temporary server permits.

E. This subsection has been renumbered to 15 NMAC 11.3.1.8.8 [now Subsection H of 15.11.31.8 NMAC].

F. The department will prepare and distribute the server permits to the applicant.

G. Failure to submit any original server permit application to the department within 10 days of the class at which it was completed will subject the provider to a late fee of \$5 per application.

H. Requests for replacement server permits must be submitted in writing to the department. Requests must be made by the server, must be submitted on forms provided by department, and must be accompanied by a \$10 replacement fee.

I. At its discretion, a provider may offer its program to individuals between the ages of 19 years and 21 years.

[7/1/97; 3/15/99; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.11.31.9 PROVIDER, INSTRUCTOR AND PROGRAM CERTIFICATION; RENEWAL:

A. Any person seeking certification as a provider or certification of any alcohol server training program must submit a written proposal to the director. The proposal must include:

- (1) the name and qualifications of the provider;
- (2) a description of the program content, including a copy of the program handbook to be distributed to, and retained by, applicants; names and qualifications of proposed instructors;
- (3) a surety bond of a surety company authorized to transact business in New Mexico, or other evidence of financial responsibility, covering all instructors;
- (4) location where and dates when the program will be offered;
- (5) fees charged to take the course; and
- (6) any other information required by the director; the proposed program must include at least four and one-half (4 1/2) hours of actual instruction time.

B. Necessary qualifications for a corporation, individual or other business seeking certification as a provider or certification of an alcohol server training program must include proof of authorization to conduct business in New Mexico, a New Mexico tax registration certificate, a business license, the name and telephone number of the individual to contact concerning the application or program, and evidence that all instructors have completed a training course approved by the director.

C. The department will issue certificates for providers, instructors and programs when all the required information is submitted and complies with the requirements.

D. Any independent contractor who obtains the right to own, teach or otherwise use a program, but is not covered under the provider's surety bond, will be required to obtain certification as a provider, including posting a surety bond as required in the alcohol server education article_or providing other evidence of financial responsibility.

E. Provider and instructor certificates expire on December 31 each year.

F. Renewal applications must be submitted no later than November 30 each year, and must include names and qualifications of instructors; a surety bond of a surety company authorized to transact business in New Mexico, or other evidence of financial responsibility, for all instructors; and all changes in the program then on file with the department, including changes in program content, program schedule and fees. Renewal applications also must include the renewal fees of \$350 for providers and \$100 for instructors. Late renewal applications will be subject to a late fee of \$30 per provider plus \$10 per instructor.

G. The initial certification fee for providers, programs and instructors will be prorated, as follows:

- (1) certification obtained before April 1 of any year will be subject to the full amount of the annual certification fee;
- (2) certification obtained on or after April 1 and before July 1 will be subject to three-fourths of the annual fee;
- (3) certification obtained on or after July 1 and before October 1 will be subject to one-half of the annual fee; and
- (4) certification obtained on or after October 1 will be subject to one-fourth the annual fee.

H. This section has been renumbered to 15 NMAC 11.3.1.8.6 [now Subsection F of 15.11.31.8 NMAC].

I. Certification as a provider or instructor, and program certification, may not be transferred to any other person.

J. A provider shall notify the department, in writing, within 30 days of the date on which the provider has sold or granted to any person the right to own, teach, or otherwise use the provider's program.

K. This section has been renumbered to 15 NMAC 11.3.1.10.2 [now Subsection B of 15.11.31.10 NMAC].

[7/1/97; 3/15/99; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.11.31.10 CONTENT OF PROGRAM:

A. The department will establish the minimum instruction times for subjects required to be included in the programs.

B. Providers must ensure that they and any instructors employed by them conduct the program as approved by the director.

C. Providers shall ensure that each student is provided complete course materials at the beginning of each class.

D. Providers must obtain prior approval from the director before changing the content of an approved program.

E. Tests must be administered immediately after the end of each class. Providers may allow an applicant who fails the test to re-take it at another time in the presence of an instructor.

[7/1/97; 3/15/99; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.11.31.11 SERVER PERMITS - POSSESSION: All servers, including licensees and lessees who are serving, must have their valid server permits in their possession when engaged in the sale or service of alcoholic beverages.

[7/1/97; 3/15/99; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.11.31.12 SURETY BOND; EVIDENCE OF FINANCIAL RESPONSIBILITY: The purpose of the surety bond is to ensure that the provider's students will be reimbursed for fees paid for the program if the provider or instructor fails to conduct the program to completion.

[7/1/97; 3/15/99; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.11.31.13 VIOLATION OF PROVIDER AND PROGRAM REQUIREMENTS: The director may fine or decertify any program, or refuse to renew certification, when the director determines that:

A. a provider, instructor or an agent, knowingly provided false information to the director, advisory committee or department with regard to completion of a certified program by any person;

B. a provider, instructor or an agent, failed to conduct the program as certified by the department;

C. any person filing an application with the department for certification of a provider, instructor or program knowingly submitted false information to the director, advisory committee or department;

D. a provider failed to provide to the department complete, timely reports of applicants who satisfactorily completed the program; or

E. a provider or instructor otherwise failed to comply with the alcohol server education article or these regulations.

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

HISTORY OF 15.11.31 NMAC:

Pre-NMAC History: [RESERVED]

History of Repealed Material:

15 NMAC 11.3.1.7.1 - Repealed 7/15/99

15 NMAC 11.3.1.7.2 - Repealed 7/15/99

15 NMAC 11.3.1.7.4 - Repealed 7/15/99

15 NMAC 11.3.1.7.6 - Repealed 7/15/99

15 NMAC 11.3.1.7.7 - Repealed 7/15/99