



**New Mexico Regulation and Licensing Department**  
**ALCOHOL AND GAMING DIVISION**

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DIRECTOR

TO: All Liquor Licensees  
FROM: Gary Tomada, Director  
DATE: June 7, 2010  
RE: Updates and Reminders

Over the license year, the Alcohol and Gaming Division receives numerous questions and complaints regarding New Mexico liquor laws. I would like to bring a few of those inquiries to your attention with the correct response as well a major legislative update that will affect the Restaurant license holders and continues to affect package liquor retailers.

- SB 40 was signed into law and becomes effective on July 1, 2010. This law amends the Liquor Control Act to allow persons with a valid Concealed Carry Permit to bring a firearm onto a premise with a Restaurant (beer & wine) license. This DOES NOT apply to restaurants with a Dispenser type license (Dispenser, Inter-local dispenser, Lottery, Canopy or Rural Dispenser) that sells or serves spirits. It is still illegal to bring a firearm onto a premise that has a Dispenser type license and serves alcohol for **on-premise** consumption.

SB 40 contains a provision that allows the owner of an establishment with a Restaurant License to opt out of allowing firearms onto its premises. The licensee may choose to conspicuously post signs at the entrances to his establishment advising patrons that he does not allow firearms. The Alcohol and Gaming Division does not provide these signs, they must be created by the licensee.

- It is illegal in New Mexico for any license holder to purchase their alcohol from anyone other than a licensed New Mexico Wholesaler. It has come to our attention that some licensees are going to Sam's Club, Costco etc. to purchase the alcohol they sell in their establishments. This practice could result in the imposition of fines ranging from \$500 to \$5,000 for **each** offense.
- New Mexico law requires that establishments maintain logs for both keg sales and large purchases of alcohol. Section 60-7-4.2 NMSA 1978 requires that licensees who sell twenty gallons of distilled spirits, beer and/or wine to a single purchaser record the date of the sale, the name

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and address of the purchaser, a description of the quantity and type of liquor sold and with a full case of distilled spirits, the serial number of the case. The record must be maintained on the licensed premise. Section 60-7B-12 NMSA 1978 requires that licensees complete and maintain a copy of the Keg Registration form on its premises for each keg sold. The form is available on AGD's website at [www.rld.state.nm.us/agd](http://www.rld.state.nm.us/agd) .

- There is NO grace period for servers who have already been issued an Alcohol Server Permit. The permit must be renewed prior to the expiration date on the permit or the server may not sell or serve alcohol. The 30-day grace period is only for new hires who have never taken a class or received a permit.
- AGD is frequently asked whether it is legal to accept an ignition interlock license as proof that the person is over 21 years of age. Check the date of birth, check to see if the license is vertical (a minor's license is vertical) and check to see if there are any legends (Under 21 until xx/xx/xxxx) in red in the lower right hand corner. If the person is in fact over 21, there is nothing in the law that prohibits a person from purchasing alcohol – they are only prohibited from driving if they have been consuming alcohol.
- AGD has received several complaints from individuals well over the age of 21 who have been refused service because they were accompanied by another person, also visibly well over 21 who did not have an ID or who was accompanied by small children. If the person who is purchasing the alcohol is over 21 years of age and is not intoxicated, has a valid ID as proof of age, and is obviously not trying to purchase for minors or intoxicated persons, it is permissible for licensees to sell alcohol to that person. In one instance, the man was 60 years old and accompanied by his 63 year old wife. He was refused service because the wife did not have her ID with her even though he had his ID and he was the person making the purchase. In another instance, a mother, 33 years old, was refused service because she had her small children with her. In this instance, there was no reason to refuse service as it was unlikely she would provide alcohol to 5 or 6 year old children.