

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

HOUSE BILL 182

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO ALCOHOL; AMENDING A SECTION OF THE LIQUOR CONTROL ACT TO REDUCE THE PENALTY FOR SERVING ALCOHOLIC BEVERAGES TO MINORS; CHANGING THE KNOWLEDGE REQUIREMENT FOR PROVIDING ALCOHOL TO MINORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 60-7B-1 NMSA 1978 (being Laws 1993, Chapter 68, Section 22, as amended) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO MINORS-- POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

A. It is a violation of the Liquor Control Act for a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or an employee, agent or lessee of that person, if ~~he~~ the person knows or has reason to know that ~~he~~ the person is violating the provisions of this section, to:

(1) sell, serve or give alcoholic beverages to a minor or permit a minor to consume alcoholic beverages on the licensed premises;

(2) buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a minor;

(3) deliver alcoholic beverages to a minor; or

(4) aid or assist a minor to buy, procure or be served with alcoholic beverages.

B. It is not a violation of the Liquor Control Act, as provided in Subsection A or C of this section, when:

(1) a parent, legal guardian or adult spouse of a minor serves alcoholic beverages to that minor on real property, other than licensed premises, under the control of the parent, legal guardian or adult spouse; or

(2) alcoholic beverages are used in the practice of religious beliefs.

C. It is a violation of the Liquor Control Act for a minor to buy, attempt to buy, receive, possess or permit ~~himself~~ the minor's self to be served with alcoholic beverages.

D. When a person other than a minor procures another person to sell, serve or deliver alcoholic beverages to a minor by actual or constructive misrepresentation of facts or concealment of facts calculated to cause the person selling, serving or delivering the alcoholic beverages to the minor to believe that the minor is legally entitled to be sold, served or delivered alcoholic beverages, and actually deceives that person by that misrepresentation or concealment, then

the procurer and not the person deceived shall have violated the provisions of the Liquor Control Act.

E. As used in the Liquor Control Act, "minor" means a person under twenty-one years of age.

F. In addition to the penalties provided in Section 60-6C-1 NMSA 1978, a violation of the provisions of Subsection A of this section is:

(1) a fourth degree felony for an offender, other than a server, who shall be sentenced pursuant to Section 31-18-15 NMSA 1978;

(2) a petty misdemeanor for a first violation if the offender is a server, who shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

(3) a misdemeanor for a second violation if the offender is a server, who shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; and

(4) a fourth degree felony for a third or subsequent violation if the offender is a server, [and the offender] who shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. A violation of the provisions of Subsection C of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have [~~his~~] the offender's driver's license suspended for a period of ninety days. If the minor is too young to possess a driver's license at the time of the violation, then ninety days shall be added to the date [~~he~~] the offender would otherwise become eligible to obtain a driver's license; and

(3) for a third or subsequent violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform sixty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have [~~his~~] the offender's driver's license suspended for a period of two years or until the offender reaches twenty-one years of age, whichever period of time is greater.

H. A violation of the provisions of Subsection D of this section is a fourth degree felony and the offender shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."