

Comments for Proposed Rules for HB255 (2021)

-Page 12, Home Delivery by Minors

15.10.33.12 [RESERVED] MINORS PROHIBITED FROM PARTICIPATING IN THE DELIVERY OF ALCOHOLIC BEVERAGES:

Comments to ABC:

Please consider clarifying language to account for 2019 HB151 which allows for minors of at least 18 years of age who are employed by a licensed NM Wholesaler and who are licensed under the New Mexico Commercial Driver's License Act to deliver packaged alcoholic beverages.

-Page 16, Mini's:

15.10.51.15 SALES OF CERTAIN SPIRITOUS LIQUORS:

Comments to ABC:

We would suggest that ABC consider reasonable restrictions allowing for 50ml containers of spirits to be included as a value-added product in conjunction with a spirits purchase of 750ml or larger. For instance, during the holiday season it is common for spirits to have a 50ml (mini) included with a 750ml of spirits. Pictures below for reference:



Page 20, Trade Practice Changes (HB303):

15.10.53.10 COMMERCIAL COERCION AND BRIBERY:

Comments to ABC:

We would request that ABC use this section to apply limits on NM Liquor license holders for printing, such as third-party wine lists, booklets, and other print jobs. NM wholesalers are limited to \$500 per quarter or \$2,000.00 annually for in-house print jobs per the email below from former Director Root. We humbly ask that the contents of the email below be added permanently into rule.

From: Root, MaryKay, RLD [mailto:MaryKay.Root@state.nm.us]
Sent: Friday, April 14, 2017 11:33 AM
To: Thomas, Michael (Ext. 431362) <Michael.Thomas@NATDISTCO.COM>
Cc: Greg Templeton (gtempleton@sgws.com) <gtempleton@sgws.com>
Subject: RE: Accounts Requesting support for Wine list

Good morning Mike and Greg,
Excellent issues – I want to make sure that what we ask of you is appropriate. I can see that \$500 would be difficult as an annual cap and could make sense as a quarterly cap for in-house printing or as an amount toward third party printing. I believe \$500/quarter captures the spirit of the law for printing and I ask that you keep me informed as this rolls out, should any modification be required. Thank you so much for working together and seeking answers. I hope you are able to get some down time for the holiday weekend.

MK
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Page 26, Internet Sales:

15.10.55.8 THIRD-PARTY, INTERNET SALES [GENERALLY PROHIBITED]:

Comments to ABC:

This section appears to attempt to create a delineation between delivery as authorized via HB255 versus shipping direct to consumers via common carrier. Please consider further clarification to distinguish the two separate activities. It is important to note that direct sales to consumers using web-based platforms with shipment by common carrier continues to grow at an alarming rate. This business practice quite often avoids state taxation, regulation, and enforcement while sending profits out of state while the social cost of those transactions remains in NM.

Restaurant Delivery:

15.11.20.10 DELIVERY RESTRICTIONS AND REQUIREMENTS FOR RESTAURANT LICENSES:

Comments to ABC:

In Section C of 15.11.20.10 it appears that the language conflicts with that of HB255. In Section 4, Subsection 5 of HB255 (Page 8, line 24 & 25 of the Final Version) HB255 authorizes six 12oz containers of pre-packaged wine, beer, cider, or spiritous liquors or one locally produced growler to be delivered.

Please consider allowing for the delivery of ready to drink beverages in the aforementioned pre-packaged containers. The inclusion of pre-packaged beverages ensures that the consumer receives a product with a factory seal, known and listed ingredients, while ensuring that the delivered beverage has a reasonable ABV and that the product ordered and sold is the product that is delivered.

15.10.51.12 "BYOB" EXCEPTION: PRIVATE PARTIES ON LICENSED PREMISES:

Comments to ABC:

We would suggest that this section be repealed entirely. BYOB exceptions create ambiguity pertaining to the chain of custody of product, product origins, and raises liability concerns. Should a repeal not be entertainable, please consider requiring a receipt / invoice showing that BYOB product was sourced from a NM retailer similar to the provision for Wholesaler donated product in 15.10.51.12 E.

15.10.53.8 PAYMENT, REFUND AND EXCHANGE:

Comments to ABC:

We would ask that the ABC consider a ten business day window in which retailers may return wine and spirits products to a wholesaler. Wine and spirits are substantially more costly than other industry staples and generally don't have an expiration date, with that volume buys can be attractive to achieve a more competitive price. The ten-day return window would prevent a faux volume buy and subsequent return of a portion of the product as a means of manipulating the volume buying process.