

NM RLD |ALCOHOLIC BEVERAGE CONTROL DIVISION STATUTES & REGULATIONS PERTAINING TO 300 FOOT RULE

NEW MEXICO STATE STATUTES ANNOTATED 1978 COMPILATION CHAPTER 60 BUSINESS LICENSES

§60-6B-10. LOCATIONS NEAR CHURCH OR SCHOOL; RESTRICTIONS ON LICENSING.

No license shall be issued by the director for the sale of alcoholic beverages at a licensed premises where alcoholic beverages were not sold prior to July 1, 1981 that is within three hundred feet of a church or school. A license may be granted for a proposed licensed premises if the owner or lessee has, prior to establishment of a church or school located within three hundred feet of the proposed licensed premises, applied for, been granted and maintained a valid building permit for the construction or renovation of the proposed licensed premises and has filed on a form prescribed by the director a notice of intention to apply for transfer of a license to the proposed licensed premises. **A license may be granted for a proposed licensed premises if a person has obtained a waiver from a local option district** governing body for the proposed licensed premises. A license may be granted for a proposed licensed premises if a person has obtained a restaurant A license or a restaurant B license pursuant to Section 60-6A-4 NMSA 1978. For the purposes of this section, all **measurements taken** in order to determine the location of licensed premises in relation to churches or schools **shall be the straight line distance from the property line of the licensed premises to the property line of the church or school.** This provision *shall not apply to a church that has been designated as a historical site by the cultural properties review committee and that does not have a regular congregation.*

NEW MEXICO ALCOHOL CONTROL REGULATIONS – NMAC TITLE 15 – GAMBLING AND LIQUOR CONTROL

15.10.2.7 Definitions. LL. “School” means:

- (1) a public or private educational institution accredited as such by the state or federal government;
- (2) a discernible building or group of buildings generally recognized as a preschool, kindergarten, elementary, secondary, middle school, junior high, high school or combination thereof; or
- (3) a center for attendance where educational instruction is offered by certified school instructors; a “school” must be located in a zoning area of the local option district that permits schools, but **shall not include a home school** as defined in Public School Code, *or adult career training classes, or facilities used exclusively for daycare services.*

15.10.32.8 LOCATION NEAR CHURCH OR SCHOOL:

All measurements for the purpose of determining the location of a licensed premises in relation to churches or schools **shall be the shortest direct line measurement between the actual limits of the real property** of the church or school **in which there is regularly conducted church services or educational functions**, and the controlled access area of 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. A license may be granted for a proposed location if a person has obtained a waiver from a local option district governing body for the proposed location.

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 division 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 division 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.**