

**TITLE 15        GAMBLING AND LIQUOR CONTROL**  
**CHAPTER 11    ALCOHOLIC BEVERAGES LICENSING**  
**PART 20        LICENSES AND PERMITS – ALCOHOLIC BEVERAGE DELIVERY**

**15.11.20.1        ISSUING AGENCY:** The New Mexico Regulation and Licensing Department, Alcoholic Beverage Control Division.  
[15.11.20.1 NMAC - N, 9/28/2021]

**15.11.20.2        SCOPE:** These rules apply to all licensees under the New Mexico Liquor Control Act.  
[15.11.20.2 NMAC - N, 9/28/2021]

**15.11.20.3        STATUTORY AUTHORITY:** Section 60-3A-10 NMSA 1978 of the act authorizes the director to make and adopt such rules as necessary to carry out the duties of the division.  
[15.11.20.3 NMAC - N, 9/28/2021]

**15.11.20.4        DURATION:** Permanent.  
[15.11.20.4 NMAC - N, 9/28/2021]

**15.11.20.5        EFFECTIVE DATE:** September 28, 2021, unless a later date is cited at the end of a section.  
[15.11.20.5 NMAC - N, 9/28/2021]

**15.11.20.6        OBJECTIVE:** This rule is intended to establish standard procedures for obtaining and operating alcoholic beverage delivery permits and third-party alcohol delivery licenses.  
[15.11.20.6 NMAC - N, 9/28/2021]

**15.11.20.7        DEFINITIONS:** Unless otherwise defined in 15.10.2 NMAC, terms used in these rules have the same meanings as set forth in the Liquor Control Act.  
[15.11.20.7 NMAC - N, 9/28/2021]

**15.11.20.8        ALCOHOLIC BEVERAGE DELIVERY PERMIT:** An alcoholic beverage delivery permit may be issued, at the discretion of the director, to the holder of a retailer's, dispenser's, craft distiller's, winegrower's, small brewer's, restaurant a, or restaurant b license upon submission of an application to the division.

**A.** For purposes of this section dispenser's licenses shall include dispenser's, inter-local dispenser's, canopy, and lottery licenses.

**(1)** Those licenses that no longer have package sales capabilities, for consumption off of the licensed premises, to be limited in alcoholic beverage quantities established in Subsection B of 15.11.20.10 NMAC and Subsection C of 15.11.20.10 NMAC.

**(2)** Nothing within these rules allows licensees to allow for to go sales of alcoholic beverages for consumption off of the licensed premises, if the license does not allow for package sales.

**B.** The holder of an alcoholic beverage delivery permit may do the following:

**(1)** Deliver alcoholic beverages only in unbroken packages or sealed growlers;

**(2)** Deliver alcoholic beverages only within the geographical boundaries of the county and the local option district the licensee is located, unless written approval to deliver into an adjoining county has been given by the division;

**(3)** Deliver alcoholic beverages only during the hours allowed by the Act, based on the license type; and

**(4)** Contract for the delivery of alcoholic beverages with the holder of a third-party delivery license issued in accordance with the act.

**C.** The holder of an alcoholic beverage delivery permit:

**(1)** Shall receive payment for alcoholic beverages only at the licensed premises of the licensee personally, telephonically, electronically, via website or application, or other internet platform;

**(2)** Shall not change the price charged for an alcoholic beverage because it was purchased for delivery, provided they may charge a separate delivery fee disclosed at the time of the purchase;

**(3)** Shall not delivery an alcoholic beverage to a business, a commercial establishment, a college or university, or a school campus;

(4) Shall obtain valid proof of the delivery recipient's identity and age and keep records of such in accordance with 15.11.2.15 NMAC;

(5) Shall not deliver alcoholic beverages to intoxicated persons or to anyone unable to demonstrate that they are 21 years of age or older; and

(6) Shall have only alcoholic beverages that have been purchased for delivery, in their vehicle, while transporting alcoholic beverages for delivery.

**D.** If for any reason a delivery of alcoholic beverages cannot be completed, the alcoholic beverages shall be returned to be entered into the licensee's stock and the customer shall be refunded for the payment collected prior to delivery.

**E.** Contracting with the holder of a third-party delivery license shall not be used as a means to circumvent these rules.

[15.11.20.8 NMAC - N, 9/28/2021]

**15.11.20.9 DELIVERY RESTRICTIONS AND REQUIREMENTS IN CLASS A COUNTIES:**

**A.** The division shall follow the county classifications established by the local government division of the department of finance and administration.

**B.** Licensees otherwise qualified to be issued an alcoholic beverage delivery permit, with an indoor retail space greater than 10,000 square feet, located in a class A county shall:

(1) Use an identification verification system approved by the division. The system must have the capabilities to establish identification of the purchaser was checked and scanned for each delivery and store such information;

(2) Only sell for delivery beer and wine.

(3) Provide to the division proof of liquor liability endorsement in the amount of five million dollars (\$5,000,000) or greater; and

(4) Only utilize employees of the licensee for purposes of delivery of alcoholic beverages.

[15.11.20.9 NMAC - N, 9/28/2021]

**15.11.20.10 DELIVERY RESTRICTIONS AND REQUIREMENTS FOR RESTAURANT LICENSES:**

**A.** Restaurant licenses are limited to the delivery of alcoholic beverage types allowed by their license.

**B.** Alcoholic beverages shall only be delivered to customers concurrently with the delivery of a minimum of ten dollars (\$10.00) worth of food.

**C.** Delivery of alcoholic beverages to one location, during a three hour period of time, shall not exceed:

(1) 750 milliliters of wine;

(2) six 12-ounce containers of prepackaged wine, beer, cider;

(3) three 12-ounce containers of manufacturer canned or bottled ready to drink cocktails containing spiritous liquors with an alcoholic by volume of thirteen percent;

(4) one growler or crowler of product manufactured by a small brewer; or

(5) one howler of a cocktail, mixed by the licensee, containing no more than four and one-half ounces of spiritous liquors, in order to comply with Paragraph (6) of Subsection F of Section 60-6A-4 NMSA 1978, of the act. The howlers used must contain the DBA of the licensee etched onto the glass or have the receipt secured onto the container.

**D.** Contracting with the holder of a third-party delivery license shall not be used as a means to circumvent these rules.

[15.11.20.10 NMAC - N, 9/28/2021]

**15.11.20.11 THIRD-PARTY ALCOHOL DELIVERY LICENSE:**

**A.** A person may be issued a third-party alcohol delivery license upon submission of a completed application or renewal application to the division, on a form to be prescribed by the director. Applications and renewal applications must be accompanied by:

(1) Documentation of delivery employees state issued server permits;

(2) Proof of general liability insurance coverage, providing coverage for employees and independent contractors of applicant, in an amount of one million dollars (\$1,000,000) or greater, per occurrence;

(3) Proof of applicant being authorized to do business in the state; and

(4) An exemplar copy of a contract to be used between applicant and licensees holding alcoholic beverage delivery permits, with executed contracts to be submitted after execution.

- B.** The holder of a third-party alcohol delivery license may:
- (1) Contract with licensees issued an alcoholic beverage delivery permit for the purpose of delivering alcoholic beverages to customers;
  - (2) Deliver alcoholic beverages, in accordance with the act and these rules, from a licensed premises of a licensee to customers.
  - (3) Have in their possession only alcoholic beverages purchased by a customer and received from a licensee's stock.
- C.** If for any reason a delivery of alcoholic beverages cannot be completed, the alcoholic beverages shall be returned to be entered into the licensee's stock and the customer shall be refunded for the payment collected prior to delivery.
- D.** A third-party alcohol delivery licensee shall not:
- (1) Share in the profits of the sale of alcoholic beverages with a licensee;
  - (2) Buy, hold or deliver alcoholic beverages under a third-party alcohol delivery license; or
  - (3) Assist licensees in the delivery of alcoholic beverages in violation of these rules.
  - (4) Nothing in this section shall preclude a third-party alcohol delivery licensee from holding any other license issued pursuant to the Liquor Control Act.
- [15.11.20.11 NMAC - N, 9/28/2021]

**HISTORY OF 15.11.20 NMAC: [RESERVED]**