

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 11 ALCOHOLIC BEVERAGES LICENSING
PART 22 LICENSES AND PERMITS - RENEWAL AND SUSPENSION

15.11.22.1 ISSUING AGENCY: The New Mexico Regulation and Licensing Department, Alcoholic Beverage Control Division.
[15.11.22.1 NMAC - Rp, 15 NMAC 11.2.2.1, 4/25/2017; A, 9/28/2021]

15.11.22.2 SCOPE: These rules apply to all licensees under the act.
[15.11.22.2 NMAC - Rp, 15 NMAC 11.2.2.2, 4/25/2017]

15.11.22.3 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.
[15.11.22.3 NMAC - Rp, 15 NMAC 11.2.2.3, 4/25/2017]

15.11.22.4 DURATION: Permanent.
[15.11.22.4 NMAC - Rp, 15 NMAC 11.2.2.4, 4/25/2017]

15.11.22.5 EFFECTIVE DATE: April 25, 2017, unless a later date is cited at the end of a section.
[15.11.22.5 NMAC - Rp, 15 NMAC 11.2.2.5, 4/25/2017]

15.11.22.6 OBJECTIVE: These rules are intended to establish standards for the renewal and suspension of licenses issued under the act.
[15.11.22.6 NMAC - Rp, 15 NMAC 11.2.2.6, 4/25/2017]

15.11.22.7 DEFINITIONS: Unless otherwise defined in 15.10.2 NMAC, terms used in this rule have the same meanings as set forth in the act.
[15.11.22.7 NMAC - Rp, 15 NMAC 11.2.2.7, 4/25/2017]

15.11.22.8 RENEWAL OF LICENSE:

- A.** A complete renewal application, including a current and accurate list of servers and the payment of all applicable fees for renewal, shall be filed with the division as follows:
- (1) Retailer's, dispenser's and direct ship license renewal applications must be postmarked or filed in person with the division on or before April 1 of each year.
 - (2) Wholesaler's, manufacturer's, restaurant and club license renewal applications must be postmarked or filed in person with the division on or before August 1 of each year.
 - (3) Non-resident licenses and common carrier registrations must be postmarked or filed in person with the division on or before April 1 every third year.
 - (4) All other licenses, including but not limited to, limited wine and beer wholesaler's, wine bottler's, public service, governmental, winegrower's, wine blender's, brandy manufacturer's, wine exporter's, small brewer's, beer bottler's, craft distiller, third-party delivery and wine wholesaler's license renewal applications must be postmarked or filed in person with the division on or before December 1 of each year that the license is up for renewal.
- B.** A renewed license will not be issued in the situations listed in Paragraphs (1) through (6), below:
- (1) The licensee is delinquent in the payment of any taxes, fees, fines, costs or penalties collected by the state of New Mexico, the liability for which arises out of the exercise of the privilege of a liquor license.
 - (2) If citations for violations of the act issued more than three months prior to the filing date for renewal applications are unresolved at the time of filing the renewal application, unless the licensee and the division are involved in a formal administrative or judicial resolution process; in such event, the division shall issue a temporary license until the citation is fully adjudicated.
 - (3) For non-resident licensees and every wholesaler or rectifier selling or shipping alcoholic beverages to a New Mexico wholesaler, failure to file duplicate invoices with the division that satisfy the requirements of Subsection D of Section 60-6A-7 NMSA 1978. The director may waive this renewal condition. To facilitate compliance, the division shall maintain an electronic mail address identified on a website maintained by the division where licensees may file such invoices.

(4) For non-resident licensees, failure to file certificates of label approval as required under federal law. The director may waive this renewal condition. To verify compliance, division staff may conduct regular searches of certificates filed with private entities that maintain databases searchable via the internet.

(5) any material false statement or concealment of any material facts on the renewal application, or

(6) any other good cause, as determined by the director based upon substantial evidence.

C. All licensees who fail to renew their licenses or who are not issued a renewed license shall suspend all alcoholic beverage operations until such time as a renewed license is issued and displayed on the licensed premises. A temporary suspension must be obtained if the license ceases to operate for more than 10 consecutive days.

D. A license that is in litigation or bankruptcy at the time of renewal shall be renewed in the same manner as other licenses. Licenses shall be renewed in the name of the licensee shown on division records, regardless of who pays the renewal fee.

E. Any licensee that fails to apply for renewal of its license as required by the act and this rule will be subject to the fines and penalties set forth in 15.10.61 NMAC.

F. The licensee shall provide the division with a current floor plan of the licensed premises for approval pursuant to Subsection D of 15.11.21.12 NMAC within 30 days of the director's request.
[15.11.22.8 NMAC - Rp, 15 NMAC 11.2.2.8, 4/25/2017; A, 9/28/2021]

15.11.22.9 LATE RENEWAL OF LICENSE:

A. Any licensee who fails to submit a properly completed renewal application, including all applicable fees, by the renewal deadline must pay a late renewal fee in the amount of three hundred fifty dollars (\$350) plus ten dollars (\$10) per day for each additional day the renewal application is late.

B. The division may waive late fees if the licensee shows good cause for not filing a timely renewal application, taking into consideration hardship to the licensee, and whether the licensee filed a late renewal application the preceding five years. Except for licenses transferable under the act, including retailer and dispenser licenses, any license not renewed shall be subject to cancellation and shall not be reinstated, unless the renewal application is filed with the division within 12 months of the expiration date of the license. All applicable filing fees, taxes charged against the license, and other fees owed to the state of New Mexico must be paid and all citations must be resolved prior to a license being reinstated, unless the licensee and the division are involved in a formal administrative or judicial resolution process. A licensee who fails to get its license reinstated following expiration may apply for a new license by filing an application with the division.

[15.11.22.9 NMAC - Rp, 15 NMAC 11.2.2.9, 4/25/2017]

15.11.22.10 SUSPENSION:

A. Upon application to the division, licenses may be temporarily suspended from operation as provided in the act for up to one year at a time.

B. All applications for a temporary suspension from the operation of the liquor license, together with a filing fee of twenty dollars (\$20), must be filed with the division upon the cessation of business for more than 10 consecutive days. Any application for suspension filed after the license has ceased operation for more than 10 days or after the expiration of a prior approved suspension, shall pay an additional flat fee of fifty dollars (\$50).

C. No licensee shall resume operations prior to the date granted by the director as the ending day of suspension, without prior written notice.

D. A temporary suspension may be extended beyond one year upon separate application of the licensee at the discretion of the director if good cause is shown.

E. A license that is temporarily suspended under this subpart shall be considered to be engaged in business for the duration of such suspension for purposes of Section 60-6B-7, NMSA 1978.

F. A license in suspension remains subject to all renewal requirements.

[15.11.22.10 NMAC - Rp, 15 NMAC 11.2.2.10, 4/25/2017]

HISTORY OF 15.11.22 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 6B-5(A), Renewals of Licenses Regulation 6B-5(A), Interpreting and Exemplifying Section 60-6B-5 NMSA 1978 (1981-1984 Supp.), filed 11/4-1985;

ABC Regulation No. 6B-5(B), Renewal of Licenses Subject to Litigation Regulation 6B-5(B), Interpreting and Exemplifying Section 60-6B-5 NMSA 1978 (1981-1984 Supp.), filed 11/4/1985;
AGD Regulation 6B-5, Renewals of Licenses, filed 9/25/1990; and
AGD Regulation 6B-7, Temporary Suspension, filed 9/25/1990.

History of Repealed Material:

15 NMAC 11.2.2, Licenses and Permits - Renewal and Suspension, filed 3/4/1997 - Repealed effective 4/25/2017.

Other History:

15 NMAC 11.2.2, Licenses - Permits - Renewal and Suspension, filed 3/14/1997 was replaced by 15.11.22 NMAC, Licenses - Permits - Renewal and Suspension, effective 4/25/2017.