

NOTICE OF PROPOSED RULEMAKING

The New Mexico Regulation and Licensing Department (RLD) Alcoholic Beverage Control Division (ABC) gives notice of its initiation of a proposed rulemaking to amend sections of (or alternatively repeal and replace) the following rules: 15.10.2 NMAC, Definitions; 15.10.31 NMAC, Premises - General Requirements; 15.10.32 NMAC, Premises - Location and Description of Licensed Premises; 15.10.33 NMAC, Premises - Minors on Licensed Premises; 15.10.51 NMAC, Sales - Restrictions on Sales; 15.10.52 NMAC, Segregated Alcohol Sales; 15.10.53 NMAC, Sales - Wholesalers; 15.10.54 NMAC, Sales - Clubs; 15.10.55 NMAC, Internet Sales; 15.10.61 NMAC, Citations - Fines and Penalties; 15.10.70 Operation and Profiting by Authorized Persons and Alternating Proprietorships; 15.11.2 NMAC, Required Documents on Licensed Premises; 15.11.21 NMAC, Licenses and Permits - Applications; 15.11.22 NMAC, Licenses and Permits - Renewal and Suspension; 15.11.23 NMAC, Licenses and Permits - Change in Licensee; 15.11.24 NMAC, Licenses and Permits - Restaurant License; 15.11.25 NMAC, Licenses and Permits - Special Dispenser and Public Celebration Permits; 15.11.26 NMAC, Licenses and Permits - Fees; 15.11.27 NMAC, Licenses and Permits - Inter-Local Option District Transfers; 15.11.28 NMAC, Licenses and Permits - Bed and Breakfast License; 15.11.29 NMAC, Licenses and Permits - Tasting Permits; 15.11.30 NMAC, Purchasing Cooperatives; and 15.11.31 NMAC, Alcohol Server Training, along with a proposed new rule 15.11.20 NMAC, Licenses and Permits - Alcoholic Beverage Delivery. The rules which may be adopted as the final rules in this proceeding may include all, part, or none of the language in the proposed rules issued by ABC. ABC may also consider alternative proposals for amending or replacing the current rules.

A public hearing will be held on **July 26, 2021, from 1:00 p.m. to 5:00 p.m. and if the hearing is not concluded at that time, will continue to July 27, 2021, from 1:00 p.m. to 5:00 p.m.** via Cisco Webex platform. Any member of the public who wishes to make a comment at the hearing must contact Desirae Griego at 505-476-4552 or Desirae.Griego@state.nm.us by no later than 12:00 pm on July 22, 2021, in order to be placed upon the public comment listing and to receive the Cisco Webex invitation. The invitation will include a call-in number for those participants who are unable to access the Cisco Webex platform via computer. The purpose of the hearing is to give interested persons an opportunity to give oral comments. The ABC may limit the time for each comment.

A copy of the full text of the proposed rules may be obtained from the ABC website, www.rld.state.nm.us/abc, or by calling Desirae Griego at 505-476-4552 during regular business hours.

Concise explanatory statement:

ABC is considering amending sections of rule **15.10.2 NMAC, Definitions**. ABC is considering changes to many sections of the rule. In particular, defining additional terms, including, but not limited to: “delivery” and “shipping” in order to clarify what activities are authorized by the 2021 amendments to the Liquor Control Act.

ABC is considering repealing and replacing sections of rule **15.10.31 NMAC, Premises - General Requirements**. ABC is considering changes this rule to bring it to current format standards. Additionally, ABC is making changes to the sanitation requirements of the rule to further ensure the public’s health and safety.

ABC is considering amending sections of rule **15.10.32 NMAC, Premises - Location and Description of Licensed Premises**. ABC is considering changes to many sections of this rule due changes in the definition for “licensed premises” in the Liquor Control Act. Additionally, the changes clarify where alcoholic beverage sales and consumption may take place on a licensed premises.

ABC is considering amending sections of rule **15.10.33 NMAC, Premises - Minors on Licensed Premises**. The proposed changes clarify the prohibition on minors participating in the delivery of alcoholic beverages, as employees of liquor license holders and third-party delivery services.

ABC is considering amending sections of rule **15.10.51 NMAC, Sales - Restrictions on Sales**. The proposed changes remove prior contradictory language regarding gambling, thus clarifying prohibited activities on licensed premises. Additionally, the changes will clarify sales of certain spirituous liquors quantities and sales to customers on licensed premises while in a motor vehicle.

ABC is considering amending sections of rule **15.10.52 NMAC, Segregated Alcohol Sales**. The proposed changes will clarify that alcoholic beverage display areas need to be located in the controlled access area of the licensed premises.

ABC is considering amending sections of rule **15.10.53 NMAC, Sales - Wholesalers**. The proposed changes will cause commercial coercion and bribery to conform with the 2021 amendment to the Liquor Control Act on inducements.

ABC is considering amending sections of rule **15.10.54 NMAC, Sales - Clubs**. The proposed changes will remove prior contradictory language regarding gambling on a licensed premises. Additional changes will address the number of fund raising events, by other non-profit organizations, a club may allow on its facilities per year.

ABC is considering amending sections of rule **15.10.55 NMAC, Internet Sales**. The proposed changes will cause the rule to conform to the use of internet, application, and telephonic platforms for the purchase of alcoholic beverages through delivery and other means, as allowed by 2021 amendments to the Liquor Control Act.

ABC is considering amending sections of rule **15.10.61 NMAC, Citations - Fines and Penalties**. The proposed changes will add fines and penalties for violations relating to delivery of alcoholic beverages.

ABC is considering amending sections of rule **15.10.70 NMAC, Operation and Profiting by Authorized Persons and Alternating Proprietorships**. The proposed changes will create a framework in which contracts between licensees and third-party delivery services relate to profit sharing.

ABC is considering amending sections of rule **15.11.2 NMAC, Required Documents on Licensed Premises**. The proposed changes address the required documents delivery personal are required to have on their person during the delivery of alcoholic beverages to customers.

ABC is proposing the new rule **15.11.20 NMAC, Licenses and Permits – Alcoholic Beverage Delivery**. This rule will establish the framework in which licensees may obtain an alcoholic beverage delivery permit and in which third-party delivery services may obtain a third-party alcohol delivery license. The rule will also clarify what permit holders and license holders are able to do in regards to delivery of alcoholic beverages and restrictions on alcoholic beverage delivery based on location of licensee, size of licensee's retail space, and type of license held.

ABC is considering amending sections of rule **15.11.21 NMAC, Licenses and Permits – Applications**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.22 NMAC, Licenses and Permits – Renewal and Suspension**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.23 NMAC, Licenses and Permits – Change in Licensee**. The proposed change clarifies instances in which a change of ownership of a license occurs and creates an additional means of a reportable change of structure without a change of ownership.

ABC is considering amending sections of rule **15.11.24 NMAC, Licenses and Permits – Restaurant License**. The proposed changes address the new restaurant b license created by 2021 amendments to the Liquor Control Act, as well as the creation of a New Mexico spirituous liquors permits for, what will be renamed, restaurant a licenses.

ABC is considering amending sections of rule **15.11.25 NMAC, Licenses and Permits – Special Dispenser and Public Celebration Permits**. The proposed changes address the ability for New Mexico small manufacturers to obtain private celebration permits. Additionally, the changes will conform to 2021 amendments to the Liquor Control Act in regards to reciprocity between New Mexico small manufacturers.

ABC is considering amending sections of rule **15.11.26 NMAC, Licenses and Permits – Fees**. The proposed changes relate to fees for licenses and permits created by 2021 amendments to the Liquor Control Act.

ABC is considering amending sections of rule **15.11.27 NMAC, Licenses and Permits – Inter-Local Option District Transfers**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments to the Liquor Control Act.

ABC is considering amending sections of rule **15.11.28 NMAC, Licenses and Permits – Bed and Breakfast License**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.29 NMAC, Licenses and Permits – Tasting Permits**. The proposed changes clarify where within licensed premises a tasting may be conducted, pursuant to a permit issued by ABC.

ABC is considering amending sections of rule **15.11.30 NMAC, Purchasing Cooperatives**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act.

ABC is considering amending sections of rule **15.11.31 NMAC, Alcohol Server Training – Certification**. The proposed change amends the rule to reflect the current name of the division, conforming to 2019 amendments of the Liquor Control Act. Additionally, the changes will reflect the requirement that delivery be addressed in server trainings.

Constitutional and statutory authority: Section 60-3A-7, NMSA 1978.

Public Comment. Interested parties may provide comment at the public hearing or may submit written comments by mail to Desirae Griego, Alcoholic Beverage Control Division, Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, New Mexico 87504, by electronic mail to Desirae.Griego@state.nm.us, or by fax to (505) 476-4595. All written comments must be received no later than 5 p.m. (MST) on Friday, 23, 2021. The ABC encourages the early submission of written comments. The public comment period is from June 22, 2021, to Friday, July 23, 2021, at 5:00 p.m. (MST).

The ABC will review all feedback received during the public comment period and issue communication regarding a final decision at a later date.

Any person with a disability requiring special assistance in order to participate in the hearing should contact Desirae Griego at 505-476-4552 or Desirae.Griego@state.nm.us at least 10 calendar days prior to the commencement of the hearing.