

This is an amendment to 15.10.61 NMAC Section 8, effective 10/15/06. This rule was also renumbered and reformatted to comply with current NMAC requirements.

**15.10.61.8 SCHEDULE OF PENALTIES:**

**A. Violations involving sales to minors or intoxicated persons within a twelve (12) month period.**

Code	Description
90	Sale to intoxicated person
105	Sale to a minor

(1) The first offense will result in a fine ranging from \$1,000 to \$2,000 and suspension of all alcohol sales for one business day.

(2) The second offense will result in a fine ranging from \$2,000 to \$3,000 and suspension of all alcohol sales for seven business days.

~~[(3) The third offense will result in a fine ranging from \$3,000 to \$4,000 and suspension of all alcohol sales for 14 business days.]~~

~~[(3) Three or more offenses shall result in a fine of \$10,000 and revocation of the liquor license.]~~

~~[(4) The fourth offense will result in a fine ranging from \$4,000 to \$5,000 and suspension of all alcohol sales for 30 business days.]~~

~~[(5) Five or more offenses will result in a fine of \$10,000 and revocation of the liquor license.]~~

B. Any combination of three offenses involving sales to minors and/or sales to intoxicated persons occurring within a twelve month period shall result in a fine of \$10,000 and revocation of the liquor license.

~~[B-]C. Violations involving licensing issues:~~ Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines within the ranges shown below. Penalties may also include suspension or revocation of the liquor license.

Code	Description	Fine
117	more than one entity profiting	\$2,000 to \$10,000
118	unauthorized entity profiting or operating	\$1,500 to \$10,000
119	failure to report change of ownership or structure	\$250 to \$3,000
135	failure to renew license	\$500 to \$3,000
205	unauthorized transfer of a liquor license	\$3,000 to \$10,000
300	persons prohibited from holding a license	\$3,000 to \$10,000

~~[C-]D. Illegal sale or possession of alcoholic beverages:~~ Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$500 to \$10,000. Penalties may also include suspension or revocation of the liquor license

Code	Description
160	sale/possession - illegal

~~[D-]E. Public nuisance violations:~~

Code	Description
125	public nuisance

(1) Penalties imposed for public nuisance violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include the administrative fines and penalties shown below.

(2) The first offense will result in a fine of \$2000. A plan of correction of the violations, including timetables for such correction, must be agreed to by the parties within 30 days after the Department receives the citation, or the citation will be referred to a formal hearing.

(3) Failure to correct the violations as agreed will result in an additional fine of \$3000 and immediate suspension of the license until the corrections are completed.

(4) The second offense within a 24-month period will result in a fine of \$4000. A plan of correction of the violations, including timetables for such correction, must be agreed to by the parties within 30 days after the department receives the citation, or the citation will be referred to a formal hearing. After the plan of correction is agreed to, the license will be immediately suspended until completion of the corrections.

(5) The third offense in a 36-month period will result in revocation of the license.

**[E.]F. Violations involving commercial gambling:** Penalties imposed for commercial gambling violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include the administrative fines shown below. Penalties may also include suspension or revocation of the liquor license.

Code	Description
40	commercial gambling
(1)	The first offense will result in a fine of \$3,000.
(2)	The second offense will result in a fine of \$4,000.
(3)	The third offense will result in a fine of \$5,000.
(4)	Four or more offenses will result in a fine of \$10,000.

**[F.]G. Violations involving club sales provision:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$500 to \$5,000. Penalties may also include suspension or revocation of the liquor license.

Code	Description
35	liquor sales to non-members
37	other violations of club sales restrictions

**[G.]H. Violations involving other licensing, sales and service matter:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$500 to \$5,000. Penalties may also include suspension or revocation of the liquor license.

Code	Description
1	unauthorized package sale
2	unauthorized sunday sale by drink
3	unattended alcoholic beverages
27	purchase from other than a wholesaler
28	alcohol server training program - failure to complete
29	alcohol server training certification - failure to renew
45	removal of open container from licensed premises
66	violation of restaurant license restriction
80	employing an underage person
87	dispenser, drink or price violation
107	minor in possession/consuming
110	minor in restricted area of premises
120	operating hours - improper or illegal
145	unauthorized sale by the drink
146	filling of bottles
155	sale from other than designated premises
157	change of floor plan without approval
180	special dispenser's permit violation
185	unauthorized sunday sale - package
195	failure to obtain sunday sales permit
215	violation of wholesaler license restriction
301	obstruction of the administration of the liquor control act
302	private party violation

**[H.]I. Miscellaneous violations of the liquor control act or regulations:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines ranging from \$250 to \$3,000. Penalties may also include suspension or revocation of the liquor license.

Code	Description
5	advertising - illegal
10	agency responsibility/authority

25	failure to engage in business
26	failure to suspend license
50	unauthorized display of copy/facsimile of license
100	improper lighting of premises
116	unauthorized change of dba name
175	sanitation violation
303	beer keg labeling violation
304	unauthorized change of corporate name
314	required documents on licensed premises

**[F-]J. Other violations not specifically listed:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and may include administrative fines and/or suspension or revocation of the liquor license.

Code	Description
999	miscellaneous

**[F-]K. Violations involving providers:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case and, unless enhanced, will include administrative fines up to \$500.

Code	Description
305	failure to notify of sale, right to own, teach, or use of program to any person
306	providing false information regarding certified program completion
307	failure to conduct the program as certified by the department
308	filing an application for certification of a provider, instructor, or program with false information
310	failure to comply with provisions of alcohol server education article or regulations promulgated there under

**[K-]L. Violations involving servers:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case unless enhanced.

- (1) Failure to have server permit in possession (code 311). Fine up to \$250, suspension up to 14 consecutive days, or both.
- (2) Serving alcoholic beverages without a valid, current server permit (code 312). Fine up to \$500.
- (3) Sale to minor or intoxicated person (code 313):
  - (a) the first offense may result in a fine of up to \$500, a 30-day suspension, or both;
  - (b) the second offense may result in a fine of up to \$500, a 1 year suspension, or both;
  - (c) the third offense may result in a fine, suspension, or revocation.

**[L-]M. Violations of the alcohol server education article involving licensees:** Penalties imposed for the following violations will be determined by the director depending upon the facts and circumstances of each case unless enhanced.

Code	Description
316	Employing a person without a server permit up to \$500
317	failure to maintain copies of server permits on the licensed premises: \$20 per permit
318	failure to produce a copy of an employee's server permit: \$20 per permit
319	Permitting a person with a suspended or revoked permit to serve alcoholic beverages: up to \$500

**[M-]N. Suspension of alcoholic beverage sales:**

- (1) When suspension of alcoholic beverage sales is a penalty for violation of the Liquor Control Act, suspension will be addressed as follows:
  - (a) for a one-day suspension, the licensee will be required to suspend alcohol sales on the same day of the week that the violation occurred; for example, if the violation occurred on a Thursday, the suspension day will be a Thursday;
  - (b) for a suspension of more than one day, the licensee will be required to suspend alcohol sales for consecutive days, beginning on the same day of the week that the violation occurred.
- (2) If the penalty for a violation is suspension, no fine is payable in lieu of suspension.

(3) Signs provided by the department must be posted on all cash registers and entrances to the restricted area on days that alcohol sales are suspended because of violations of the Liquor Control Act. [3/31/97; 7/15/99; 2/29/00; 15.10.61.8 NMAC - Rn, 15 NMAC 10.6.1.8 & A, 10/15/06]