

**TITLE 15        GAMBLING AND LIQUOR CONTROL**  
**CHAPTER 10    ALCOHOLIC BEVERAGES GENERAL PROVISIONS**  
**PART 33        PREMISES - MINORS ON LICENSED PREMISES**

**15.10.33.1        ISSUING AGENCY:** New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.  
[3/31/97; 15.10.33.1 NMAC - Rn, 15 NMAC 10.3.3.1, 04/14/06]

**15.10.33.2        SCOPE:** These regulations apply to all licensees under the New Mexico Liquor Control Act.  
[3/31/97; 15.10.33.2 NMAC - Rn, 15 NMAC 10.3.3.2, 04/14/06]

**15.10.33.3        STATUTORY AUTHORITY:** Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-10 of the Liquor Control Act authorizes the director of the alcohol and gaming division to issue and file rules necessary to administer the licensing provisions of the Liquor Control Act (60-3A-1 NMSA 1978). Section 60-3A-7 gives the alcohol and gaming division of the regulation and licensing department authority over all matters relating to the issuance, denial, suspension, or revocation of licenses under the Liquor Control Act. In addition, Section 60-7B-10 of the act requires that the director adopt regulations classifying the types of licensed premises or areas of licensed premises where minors may be present.  
[3/31/97, A, 7/15/99; 15.10.33.3 NMAC - Rn, 15 NMAC 10.3.3.3 & A, 04/14/06]

**15.10.33.4        DURATION:** Permanent.  
[3/31/97; 15.10.33.4 NMAC - Rn, 15 NMAC 10.3.3.4, 04/14/06]

**15.10.33.5        EFFECTIVE DATE:** March 31, 1997, unless a later date is cited at the end of a section.  
[3/31/97; 15.10.33.5 NMAC - Rn, 15 NMAC 10.3.3.5 & A, 04/14/06]

**15.10.33.6        OBJECTIVE:** These regulations are intended to classify the types of licensed premises or areas of licensed premises where minors may be present.  
[3/31/97; 15.10.33.6 NMAC - Rn, 15 NMAC 10.3.3.6, 04/14/06]

**15.10.33.7        DEFINITIONS:** Unless otherwise defined in 15.10.2 NMAC, terms used in these regulations have the same meanings as set forth in the Liquor Control Act.  
[3/31/97; 7/15/99; 15.10.33.7 NMAC - Rn, 15 NMAC 10.3.3.7 & A, 04/14/06]

**15.10.33.8        MINORS ON LICENSED PREMISES:**

A. If a licensee chooses to allow minors on the licensed premises for any reason except a bona fide emergency, the licensee must, in an annual application filed with the division, designate the licensed premises as either entirely a restricted area, entirely an unrestricted area, or both restricted and unrestricted areas, showing such designations on a correct floor plan of the licensed premises. The designations shall be approved or disapproved by the division. Licensees shall not permit minors to be in restricted areas. The applicant shall also indicate the nature and extent of security that will be provided to control restricted areas.

(1) If the licensed premises are designated as both restricted and unrestricted areas, and the division approves the designations, restricted areas of the licensed premises must be clearly posted and marked so that they are unmistakable from unrestricted areas.

(2) A licensee who designates both restricted and unrestricted areas on the same licensed premises and receives approval of the division for such designations, must maintain separate books of account for restricted and unrestricted areas to show whether the primary activity in each area is the sale of alcoholic beverages for consumption on the licensed premises.

B. A licensee who chooses to allow minors on the licensed premises must:

(1) ensure that no minor is sold or served, purchases, possesses or consumes an alcoholic beverage on the premises; and

(2) post in restricted areas of the licensed premises conspicuous signs that state that "minors are not permitted in this area, unless accompanied by a parent, adult spouse or legal guardian".

[3/31/97; 7/15/99; 15.10.33.8 NMAC - Rn, 15 NMAC 15.10.3.3.8 & A, 04/14/06]

**15.10.33.9 EMPLOYMENT OF MINORS:**

A. In accordance with Section 60-7B-11(B) NMSA 1978, a holder of a dispenser's, restaurant or club license may employ minors 19 years of age or older to sell or serve alcoholic beverages. Otherwise, no person may employ a minor to participate in the sale or service of alcoholic beverages, except as provided below.

B. A holder of a restaurant, dispenser's, or club license, or a special dispenser's permit, may allow minors to enter a restricted area to remove and dispose of alcoholic beverage containers in the course of their employment as bus persons provided that such employees remain in the restricted area no longer than necessary to carry out those duties.

C. A holder of a wholesaler's, retailer's, or manufacturer's license, or a holder of a dispenser's license who sells by the package, may employ minors to stock and handle alcoholic beverages in unopened containers on or around the licensed premises if an adult 21 years of age or older is on duty directly supervising such activities.

D. A licensee may permit the following minors to enter and remain in a restricted area of a licensed premise during the course of their employment or official duties if the minors are at least 18 years of age:

- (1) professional musicians, disc jockeys or other entertainers engaged in their professional capacities, or sound or lighting technicians actively engaged in support of professional musicians, disc jockeys, or other entertainers;
- (2) persons performing janitorial services, but only when the licensed premises are closed;
- (3) employees of amusement device companies for the purpose of installing, maintaining, repairing or removing any lawful amusement device or vending machine; and
- (4) security and law enforcement officers.

[3/31/97; 7/15/99; 15.10.33.9 NMAC - Rn, 15 NMAC 10.3.3.9, 04/14/06]

**15.10.33.10 [RESERVED]**

[3/31/97; Repealed, 7/15/99; 15.10.33.10 NMAC - Rn, 15 NMAC 10.3.3.10, 04/14/06]

**15.10.33.11 NO SALE, SERVICE, POSSESSION OR CONSUMPTION PERMITTED:** Under no circumstances, may minors purchase, be served, possess or consume alcoholic beverages on a licensed premises, and nothing in these regulations, including provisions permitting minors on licensed premises, shall be construed as permitting the sale or service to, or possession or consumption of any alcoholic beverage by, a minor on a licensed premises.

[3/31/97; 7/15/99; 15.10.33.11 NMAC - Rn, 15 NMAC 10.3.3.11, 04/14/06]

**15.10.33.12 DEFENSE TO SALE TO A MINOR:** If the licensee can establish all of the following, it shall be a valid defense to the administrative charge of a sale to a minor:

A. the purchaser falsely represented his or her age by producing, at the time of the alleged illegal sale, a photo identification card which appears to have been issued by a federal, state, county or municipal government, or sub department or agency thereof, and which shows the purchaser to be 21 years of age or older; and

B. the purchaser appeared to be 21 years of age or older; and

C. the seller reasonably relied on the false identification presented and on the purchaser's appearance, thereby believing the purchaser to be 21 years of age or older.

[7/15/99; 15.10.33.12 NMAC - Rn, 15 NMAC 10.3.3.12, 04/14/06]

**HISTORY OF 15.10.33 NMAC:**

**Pre-NMAC History:** None.

**History of Repealed Material:** 15 NMAC 10.3.3.10, Teen Events, repealed 7/15/99.

**NMAC History:**

15 NMAC 10.3.3, Premises - Minors on Licensed Premises (filed 3/14/97) was renumbered, amended, and reformatted to 15.10.33 NMAC, Premises - Minors on Licensed Premises, effective 04/14/06.