

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 51 SALES - RESTRICTIONS ON SALES

15.10.51.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; 15.10.51.1 NMAC - Rn, 15 NMAC 10.5.1.1, 10/15/06]

15.10.51.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.
[3/31/97; 15.10.51.2 NMAC - Rn, 15 NMAC 10.5.1.2, 10/15/06]

15.10.51.3 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-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; 15.10.51.3 NMAC - Rn, 15 NMAC 10.5.1.3, 10/15/06]

15.10.51.4 DURATION: Permanent
[3/31/97; 15.10.51.4 NMAC - Rn, 15 NMAC 10.5.1.4, 10/15/06]

15.10.51.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart [now part] remain unchanged from the following rules: AGD Regulation 7A-1(C), After Hours, filed 9-25-90; and AGD Regulation 7A-16, Sales to Intoxicated Persons, filed 9-25-90.
[3/31/97; 7/15/99; 15.10.51.5 NMAC - Rn, 15 NMAC 10.5.1.5, 10/15/06]
[Note: The words, *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.10.51.6 OBJECTIVE: These regulations are intended to establish standards by which licensees may sell and serve alcoholic beverages under the Liquor Control Act.
[3/31/97; 7/15/99; 15.10.51.6 NMAC - Rn, 15 NMAC 10.5.1.6, 10/15/06]

15.10.51.7 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:

- A. this section [subsection] has been moved and renumbered to Subsection A of 15.10.2.7 NMAC;
- B. this paragraph [subsection] has been moved and renumbered to Subsection D of 15.10.2.7 NMAC;
- C. this paragraph [subsection] has been moved and renumbered to Subsection G of 15.10.2.7 NMAC.

[3/3/97; 7/15/99; 2/29/00; 15.10.51.7 NMAC - Rn, 15 NMAC 10.5.1.7, 10/15/06]

15.10.51.8 SALES FROM LICENSED PREMISES ONLY: (The section on open container restrictions has been renumbered to 15.10.51.9 NMAC.
[3/3/97; 2/29/00; 15.10.51.8 NMAC - Rn, 15 NMAC 10.5.1.8, 10/15/06]

15.10.51.9 OPEN CONTAINER RESTRICTIONS:

- A. No one shall provide a person with an open container of an alcoholic beverage for consumption off the licensed premises or permit removal of an open container from the licensed premises.
- B. No person shall remove an open container of an alcoholic beverage from a licensed premise.

[3/31/97; 7/15/99; 2/29/00; 15.10.51.9 NMAC - Rn, 15 NMAC 10.5.1.9, 10/15/06]
[Operation and Profiting by Authorized Persons was moved and renumbered to 15.10.70 NMAC

15.10.51.10 AFTER HOURS:

- A. Licensees may not sell, serve or allow the consumption of alcoholic beverages on the licensed premises except during the hours permitted by the Liquor Control Act.
 - B. Nothing herein is intended to prohibit any licensee from opening after 7:00 a.m. on any day when the sale of alcoholic beverages is not prohibited.
 - C. A licensee whose primary business activity on the licensed premises is the sale of alcoholic beverages for consumption on the licensed premises may not open the licensed premises to the public or to club members for any purpose or business after the lawful established closing times provided for in the Liquor Control Act, unless permitted by the director in writing.
- [3/31/97; 7/15/99; 2/29/00; 15.10.51.10 NMAC - Rn, 15 NMAC 10.5.1.10, 10/15/06]

15.10.51.11 SALES TO INTOXICATED PERSONS:

- A. No licensee shall sell, serve, procure or aid in the procurement of alcoholic beverages to an intoxicated person if the licensee knows or has reason to know that the person is obviously intoxicated. In addition to other commonly recognized tests of intoxication, a blood alcohol content level of .14 or higher on breath or blood test taken not more than one and one-half hour or ninety minutes after sale, service or consumption of alcoholic beverages shall be presumptive evidence that the person was intoxicated at the time of the last sale. For purposes of this rule, a "sale" shall mean the time at which the person actually paid for the last alcoholic beverage served by the licensee to the intoxicated person.
 - B. No licensee, agent, lessee or employee of the licensee shall consume alcoholic beverages while on duty or be present on the licensed premises while intoxicated with the following exceptions:
 - (1) owners, employees, licensed wholesalers and licensed retailers may drink alcoholic beverages on the licensed premises before business hours for product training and evaluation purposes but must not become impaired; and
 - (2) only the licensee, lessee or a designated manager may drink alcoholic beverages during business hours to evaluate beverage quality but must not become impaired.
 - C. The following practices are prohibited on a licensed premises:
 - (1) games or contests that involve drinking alcoholic beverages or the awarding of alcoholic beverage drinks as prizes;
 - (2) the sale or delivery to a person of an unlimited number of alcoholic beverage drinks during any set period of time for a fixed price;
 - (3) the sale or delivery of two or more alcoholic beverage drinks for the price of one;
 - (4) allowing any person to have more than two unconsumed alcoholic beverage drinks at any one time;
 - (5) the sale or delivery of alcoholic beverages by the drink for less than half the usual, customary, or established price for a drink of that type on the licensed premises;
 - (6) the sale or delivery of alcoholic beverages by the drink for less than cost; or
 - (7) the advertising of the practices prohibited by this regulation.
 - D. Nothing contained in this regulation shall prohibit a licensee from:
 - (1) including one alcoholic beverage drink per person as part of a meal package when approved by the director in writing;
 - (2) selling wine by the bottle or carafe, or beer in a pitcher, when sold with a meal;
 - (3) selling wine by the bottle or carafe, or beer in a pitcher, to more than one person;
 - (4) offering free samples or tastes of alcoholic beverages in quantities of 1.5 ounce or less if the product is wine, beer, or a beverage containing alcohol and at least one other ingredient, or .5 ounce or less if the product is undiluted spiritous liquors, when done to promote a product;
 - (5) offering free alcoholic beverage drinks to registered guests in its hotel when approved by the director in writing; or
 - (6) utilizing a "free drink coupon" which is limited to one drink per day per patron or giving a patron a free drink as a gesture of good will or friendship; free drinks as a gesture of good will or friendship may not be advertised and may not be given at any established interval or based on the purchases by the customer;
 - (7) offering to customers product promotions such as sweepstakes, rebates on non-alcoholic beverage items, or goods that are not or do not include alcoholic beverages.
- [3/31/97; 7/15/99; 2/29/00; 15.10.51.11 NMAC - Rn, 15 NMAC 10.5.1.11 & A, 10/15/06]

15.10.51.12 PRIVATE PARTIES ON LICENSED PREMISES:

A. A licensee may allow a private party at which the host provides his own alcoholic beverages to be held on the licensed premises.

B. If the host provides his own alcoholic beverages, no alcoholic beverages may be sold to any guest at the private party. The alcoholic beverages must be served to the guests by persons who hold valid current server permits.

C. If the private party is held during hours that the licensed premises is open to the public, the area where the private party is to be held must be closed to the public and security provided to prevent persons without invitations from entering.

D. Private parties must be held on days and at times during which the licensee is authorized to sell or serve alcoholic beverages.

E. A licensee may receive alcoholic beverages donated by a licensed New Mexico wholesaler to the host of the private party and may serve the donated alcoholic beverages at a private party if the wholesaler provides the licensee with an invoice for the donated alcoholic beverages.

[3/31/97; 7/15/99; 7/15/99; 2/29/00; 15.10.51.12 NMAC - Rn, 15 NMAC 10.5.1.12, 10/15/06]

HISTORY OF 15.10.51 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records, state records center and archives under:
ABC Regulation No. 6A-2 through 6A-5, Sales from Designated Premises Only--Delivery Service Regulation No. 6A-2 through 6A-5, Interpreting and Exemplifying Section 60-6A-2 through 60-6A-5 NMSA 1978 (1981 and 1984 Supp.), filed 3/26/85;
AGD 6A-2, Sales from Licensed Premises Only, filed 9/25/90;
ABC Regulation No. 6A-7.(A), Shipping Invoices Regulation 6A-7.(A) Interpreting and Exemplifying Section 60-6A-7 NMSA 1978 (1981 and 1984 Supp.), filed 11/4/85;
AGD Regulation 6A-7, Shipping Invoices, filed 9/25/90;
AGD Regulation 7A-1(C), After Hours, filed 9/25/90;
ABC Regulation No. 7A-16.(A), Sales to Intoxicated Persons Regulation 7A-16(A), Interpreting and Exemplifying Section 60-7A-16 NMSA 1978 (1981-1984 Supp.), filed 11/4/85; and
AGD 7A-16, Sales to Intoxicated Persons, filed 9/25/90.

History of Repealed Material:

AGD Regulation 6A-7, Shipping Invoices (filed 9/25/90) repealed 3/31/97.

Other History:

AGD 6A-2, Sales from Licensed Premises Only (filed 9/25/90); AGD 6A-7, Shipping Invoices (filed 9/25/90); AGD-7A-1(C) (filed 9/25/90); AGD-7A-16, Sales to Intoxiated Persons (filed 9/25/90); and AGD-7B-6, Defense to Sale to Minor (filed 9/25/90) were all renumbered, reformatted, amended, and replaced by 15 NMAC 10.5.1, Restrictions on Sales, effective 3/31/97.

15 NMAC 10.5.1, Restrictions on Sales (filed 3/14/97) was renumbered, reformatted, amended and replaced by 15.10.51 NMAC, Restrictions on Sales, effective 10/15/06.