

This rule was filed as 15 NMAC 10.5.3.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 53 SALES - WHOLESALERS

15.10.53.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.10.53.2 SCOPE: These regulations apply to all licensees under the New Mexico Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.10.53.3 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; Recompiled 12/31/01]

15.10.53.4 DURATION: Permanent
[3/31/97; Recompiled 12/31/01]

15.10.53.5 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 rule: AGD Regulation 7A-9, Extension of Credit by Wholesalers, filed 9/25/90.
[3/31/97; Recompiled 12/31/01]
[Compiler's note: The words, *or paragraph*, above, are no longer applicable.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.]

15.10.53.6 OBJECTIVE: These regulations are intended to establish reporting, credit, and other requirements applicable to persons licensed as wholesalers under the Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.10.53.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 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; Recompiled 12/31/01]

15.10.53.8 EXTENSION OF CREDIT:

A. If any invoice for alcoholic beverages sold to any licensee remains unpaid for more than 30 days the wholesaler may not sell alcoholic beverages to that licensee except on a cash basis.

B. Cash means a cash payment, a check, or electronic funds transfer, however, if a licensee tenders a check for a sale required to be cash under this regulation and that check is dishonored, the wholesaler may not accept any further checks from that licensee for sales required to be cash under this regulation for a period of three months from the date the check is dishonored. Wholesalers who accept checks in payment for alcoholic beverages must present the checks for payment in normal course of business.

C. A wholesaler may not use a promissory note or other similar obligation from a licensee as a device to avoid the credit prohibition set forth in the Liquor Control Act and this regulation. As long as a promissory note, or other similar obligation, remains outstanding for alcoholic beverages, the licensee must pay in cash.

[3/31/97; 7/15/99; 2/29/00; Recompiled 12/31/01]

15.10.53.9 DONATIONS AND DISCOUNTS OF ALCOHOLIC BEVERAGES:

A. A licensed New Mexico wholesaler may donate alcoholic beverages or sell alcoholic beverages at a discount to licensees if the purpose of the donation or discount is not to induce the licensee to purchase alcoholic beverages from that wholesaler to the exclusion of another wholesaler. The licensee may sell or serve the donated or discounted alcoholic beverages to the public, or may give the donated or discounted alcoholic beverages away, in accordance with the provisions of the Liquor Control Act and these regulations.

B. The licensee may sell or serve the donated or discounted alcoholic beverages to the public, or may serve the donated or discounted alcoholic beverages at no charge, in accordance with the provisions of the Liquor Control Act and these regulations.

C. A licensed New Mexico wholesaler may donate alcoholic beverages to a non-licensee, but the non-licensee may not sell the donated alcoholic beverages under any circumstances.

D. Any delivery of donated or discounted alcoholic beverages by a licensed New Mexico wholesaler must be accompanied by an invoice indicating the licensee's name, d/b/a name, and license number, the amount and type of alcoholic beverages delivered, the market value of the delivered alcoholic beverages, the place where the alcoholic beverages were delivered, and the date. The invoice must show a sum due of zero for donated alcoholic beverages or the discounted amount of the purchase.

[7/15/99; 2/29/00; Recompiled 12/31/01]

HISTORY OF 15.10.53 NMAC:

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

AGD Regulation 7A-9, Extension of Credit by Wholesalers, filed 9/25/90.

History of Repealed Material: [RESERVED]