

NEW MEXICO Petroleum Marketers Association State Report

The 2015 Legislative Session began on January 19th at noon and ended on March 21st at noon.

The session started out making history. For the first time in 62 years, the Republicans have taken control of the House of Representatives and now have a 37-33 majority. This means a new Speaker of the House was elected, Rep. Don Tripp, and a new Majority Leader, Rep. Nate Gentry was also elected. Rep. Alonzo Baldonado was elected Majority Whip and Rep. Kelly Fajardo is now Caucus Chair.

With the new majority in the House it has increased the chances for Gov. Martinez to pass some of her priority bills, one of which is the repealing of drivers licenses being issued to illegal aliens that was passed by former Gov. Bill Richardson. Also, a Right to Work Bill was heard in Judiciary, and had a 6 ½ hour-long debate. Over 150 Union and other special interest citizens testified, and at the end of the hearing, the Committee did not vote, but will vote on the Bill on Friday, February 20th.

HB 32, Restrict Driver's License Issuance, sponsored by Rep. Paul Pacheco has passed out of Safety and Civil Affairs and the Judiciary Committee on strictly party line votes. It will now be voted on by the 70 members of the House. There is a Rule in the House that you can only debate a Bill for three hours, and then you have to vote on the Bill when the three hours is up. I think the Bill will pass with maybe one or two Democrats voting for it, too.

HB 58 and **HB 262** are Bills that would increase the Gasoline Excise Tax by \$.05.

SB 394 increases the Gas Tax by \$.05 and would also index the tax on a yearly basis.

There are also a lot of liquor bills introduced. I will list some of them:

HB 30 – No Alcohol Sales to a person who has an interlock system in his or her car. There are no penalties, nor does the Bill say the person selling the alcohol has to ask them for their ID, which will be marked to say they cannot purchase alcohol.

SM77 – was passed. It instructed the Regulation and Licensing Department to form a task force to review the Liquor Control Act, which has not been updated since 1982, and come up with suggestions to improve the outdated Act. Bills that have been introduced in the 2015 Legislature which we are supporting are:

SB241 – Introduced by Sen Phil Griego, Liquor Licenses
Synopsis of Bill: Senate Bill 241 impacts the transferability of quota liquor licenses statewide. It would allow dispenser's licenses which are currently restricted under quota local option districts to be able to transfer out of such districts; allowing the license to be sold and moved to another location. It would further allow liquor licenses to transfer into local option districts already over quota.

FISCAL IMPLICATIONS

SB 241 carries no appropriation and has no fiscal impact.

SIGNIFICANT ISSUES

Under current law, New Mexico has a quota for dispenser's licenses. A dispenser's license allows for sales to the public and may include establishments such as bars, restaurants, convenience stores, liquor stores, grocery stores and pharmacies. There is a quota limit of 1,411 licenses statewide, tied to population. Each local option district is allowed a certain number of these quota licenses, based on its population. Each such district

may hold a special election to allow or prohibit license transfers in or out of its district. If a local option district is under quota, licenses cannot transfer out. A seller has to find a buyer in that district. Similarly, districts over quota may limit transfers in, if they have voted to do so. Some districts allow transfers in although they are over quota. Santa Fe, Rio Rancho and Las Cruces are currently over quota.

RLD analysis states:

This legislation came out of recommendations from the Liquor Control Act Task Force which met pursuant to Senate Memorial 77, passed in the 2013 regular session. The Task Force was convened in December 2013, met through 2014, and made recommendations to the Economic and Rural Development Interim Committee. The Interim Committee adopted the consensus recommendations. The portion of SB 241 that allows licenses to transfer out of under-quota districts was a consensus item. The portion of this bill that allows licenses to transfer into over-quota districts was not a consensus item. RLD analysis also states that *"There may be a couple of dozen licenses which could transfer if this bill were to pass that currently cannot."*

HB 243 – introduced by Rep. Debbie Rodella, Liquor Licenses and Definitions.
Synopsis of Bill:

- Expands the definition of alcohol to include frozen and powdered forms. Other states have passed legislation to ban or regulate powdered alcohol.
- Clarifies that small brewers may fill growlers for sale for off-site consumption. This is allowed but not specified under current law.
- Allows craft distillers and small brewers to have three offsite premises, just as winegrowers are allowed under current law.
- Allows winegrowers to also fill and sell wine or cider in growlers, just as small brewers are allowed under current law.
- Adds an additional two weeks to the required notice for public hearings for liquor license approval at the local option district level. It also encourages, but does not require, the local option district to add website notification of the public hearing. Under current law, notice must be published in the newspaper twice, for a period of two consecutive weeks prior to the public hearing held in the local option district.
- Allows for alternating proprietorships for small brewers, winegrowers and craft distillers – this allows smaller start-ups to use another small brewer, winegrower or craft distiller's excess manufacturing capabilities, equipment and location to begin their business until they are large enough to afford to go out on their own. This is permitted for winegrowers under federal law and for other manufacturers in other states.
- Allows retailers, such as small independent grocers, to form purchasing pools or cooperatives in order to bulk purchase alcohol in order to be more price competitive with the larger chains. Purchasing co-ops are allowed in other states.
- Clarifies what is considered a reasonable return from a retailer to a wholesaler under the trade practices section so that retailers are allowed to return alcohol that is damaged (wine bottles with damaged corks, e.g.) and/or near the expiration date (in particular, beer, which has a short shelf life). While this is a generally accepted industry practice, it is not currently specified in law.



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SIGNIFICANT ISSUES

Frozen Powdered Alcohol is a new product that is currently not covered by state law. On April 8, 2014 the United States Alcohol and Tobacco Tax and Trade Bureau (TTB) approved seven labels for a product called Palcohol, a combination of the words powdered and alcohol. Less than two weeks later, TTB stated that the label approvals were issued in error. At the federal level, The Sober Truth on Preventing Underage Drinking Reauthorization Act S. 2935, 113th Cong. (2014) was introduced in November 2014 and, if enacted, would prohibit the *"manufacture, sale, distribution, or possession of powdered alcohol."*

HSD analysis suggests that Frozen Powdered Alcohol presents several challenges related to the state's effort to prevent substance abuse: This new product is easy to over consume, conceal, and obtain, particularly for minors. Powdered alcohol has no taste or smell, making it difficult to detect and easier to consume in excess. The powdered form is easy to inhale, increasing risk for abuse. Inhaling (or snorting) powdered alcohol bypasses metabolism by the liver, resulting in quicker delivery to the brain. Consequently, snorting can increase the risk for alcohol poisoning and death. The powdered form also makes it easy to put into another's drink, creating opportunities for victimization.

The small package is easy to conceal and carry into venues where alcohol is not allowed such as movie theaters, malls, or schools.

DOH analysis states: Products that are made of dehydrated alcohol (i.e., powdered alcohol) have recently been proposed for approval for sale to the United States Alcohol and Tobacco Tax and Trade Bureau. Several states, including Colorado and North Dakota, are currently exploring how to regulate powdered alcohol, including banning alcohol in powdered form.

HB 243 would include "powdered alcohol, frozen or freeze-dried alcohol" in the definition of alcoholic beverages in the New Mexico Liquor Control Act. Because powdered alcohol is a new product, its impact on health has not been well researched.

However, there are concerns that the product may lend itself to abuse and misuse because it is a very high concentration of alcohol, is easily concealed, and is produced in flavors that may appeal to children.

The last day for introduction of Bills was February 19, 2015.

UPCOMING EVENTS

The 2015 NMPMA Convention and Trade Show will be held August 17, 18, and 19, 2015, at the Marriott Pyramid Hotel in Albuquerque.

