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SENATE BILL 28

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO ALCOHOLIC BEVERAGE CONTROL; PROVIDING FOR A
NEGATIVE REFERENDUM ON SUNDAY SALES OF ALCOHOL BY THE DRINK;
AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 60-7A-1 NMSA 1978 (being Laws 1981,
Chapter 39, Section 47, as amended) is amended to read:

"60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--
CHRISTMAS DAY SALES--SUNDAY SALES FOR CONSUMPTION OFF THE
LICENSED PREMISES--ELECTIONS.--

A. Alcoholic beverages shall be sold, served and
consumed on licensed premises only during the following hours
and days:

- (1) on Mondays from 7:00 a.m. until midnight;
- (2) on other weekdays from after midnight of

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1 the previous day until 2:00 a.m., then from 7:00 a.m. until
2 midnight, except as provided in Subsections D and F of this
3 section; and

4 (3) on Sundays only after midnight of the
5 previous day until 2:00 a.m., except as provided in Subsections
6 C and E of this section and Section 60-7A-2 NMSA 1978;
7 provided, however, that nothing in this section shall prohibit
8 the consumption at any time of alcoholic beverages in guest
9 rooms of hotels.

10 B. Alcoholic beverages shall be sold by a dispenser
11 or a retailer in unbroken packages, for consumption off the
12 licensed premises and not for resale, on Mondays through
13 Saturdays from 7:00 a.m. until 12:00 a.m. on the following day,
14 except as provided in Subsections D and F of this section.

15 C. ~~[A dispenser, restaurant licensee or club]~~
16 Subject to the provisions of Subsection E of this section, a
17 licensee holding a dispenser's, restaurant or club license may,
18 upon payment of an additional fee of one hundred dollars
19 (\$100), obtain a permit to sell, serve or permit the
20 consumption of alcoholic beverages by the drink on the licensed
21 premises on Sundays from 12:00 noon until midnight and in those
22 years when December 31 falls on a Sunday from 12:00 noon until
23 2:00 a.m. of the following day ~~[except as otherwise provided in~~
24 ~~Subsection E of this section]~~. The permit shall expire on June
25 30 of each year and may be renewed from year to year upon

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1 application for renewal and payment of the required fee. The
2 permit fee shall not be prorated. Sales made pursuant to this
3 subsection or Subsection G of this section shall be called
4 "Sunday sales".

5 D. Retailers, dispensers, canopy licensees that
6 were replaced by dispenser's licensees pursuant to Section
7 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
8 governmental licensees or their lessees shall not sell, serve,
9 deliver or allow the consumption of alcoholic beverages on the
10 licensed premises from 2:00 a.m. on Christmas day until 7:00
11 a.m. on the day after Christmas, except as permitted pursuant
12 to Subsection F of this section.

13 E. ~~[Sunday sales pursuant to the provisions of~~
14 ~~Subsection C of this section are permitted in a local option~~
15 ~~district that voted to permit them. If in that election a~~
16 ~~majority of the voters in a local option district voted "no" on~~
17 ~~the question "Shall Sunday sales of alcoholic beverages by the~~
18 ~~drink for consumption on the licensed premises of licensees be~~
19 ~~allowed in this local option district?", Sunday sales are~~
20 ~~unlawful in that local option district upon certification of~~
21 ~~the election returns unless the provisions of Subsection J of~~
22 ~~this section apply. The question shall not again be placed on~~
23 ~~the ballot in that local option district until:~~

- 24 (1) ~~at least one year has passed; and~~
25 (2) ~~a petition is filed with the local~~

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1 ~~governing body bearing the signatures of registered qualified~~
2 ~~electors of the local option district equal in number to ten~~
3 ~~percent of the number of votes cast and counted in the local~~
4 ~~option district for governor in the last preceding general~~
5 ~~election in which a governor was elected. The signatures on~~
6 ~~the petition shall be verified by the clerk of the county in~~
7 ~~which the local option district is situated.] If a petition~~
8 ~~requesting the governing body of a local option district to~~
9 ~~call an election on the question of continuing to allow the~~
10 ~~sale, service or consumption of alcoholic beverages by the~~
11 ~~drink on Sundays is filed with the clerk of the governing body~~
12 ~~and the clerk of the governing body has certified that the~~
13 ~~petition is signed by at least ten percent of the number of~~
14 ~~registered voters of that local option district, the governing~~
15 ~~body shall adopt a resolution calling an election on the~~
16 ~~question. The election shall be held within sixty days of the~~
17 ~~date that the petition is certified. The election may be held~~
18 ~~in conjunction with a regular election of the governing body,~~
19 ~~if the regular election occurs within sixty days of the~~
20 ~~petition certification. The election shall be called,~~
21 ~~conducted, counted and canvassed substantially in the manner~~
22 ~~provided by law for general elections within a county or for~~
23 ~~special municipal elections within a municipality. If the~~
24 ~~majority of the voters of the local option district voting in~~
25 ~~the election vote to allow Sunday sales by the drink, then~~

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1 those sales shall continue to be allowed. If the majority of
2 the voters of the local option district vote not to allow
3 Sunday sales by the drink, then those sales shall be prohibited
4 commencing on the first Sunday after the results of the
5 election are certified. Following the election, the question
6 of allowing Sunday sales by the drink shall not be submitted
7 again to the voters within two years of the date of the last
8 election on the question.

9 F. On and after July 1, 2002, dispensers, canopy
10 licensees that were replaced by dispenser's licensees pursuant
11 to Section 60-6B-16 NMSA 1978, restaurant licensees, club
12 licensees and governmental licensees or lessees of these
13 licensees; provided that the licensees have current, valid food
14 service establishment permits, may sell, serve or allow the
15 consumption of alcoholic beverages by the drink on licensed
16 premises from noon until 10:00 p.m. on Christmas day, except in
17 a local option district in which, pursuant to petition and
18 election under this subsection, [~~a~~] the majority of the voters
19 voting on the question [~~votes~~] vote against continuing such
20 sales or consumption on Christmas day. An election shall be
21 held on the question of whether to continue to allow the sale,
22 service or consumption of alcoholic beverages by the drink on
23 licensed premises from noon until 10:00 p.m. on Christmas day
24 in a local option district, if a petition requesting the
25 governing body of that district to call the election is signed

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1 by at least ten percent of the registered voters of the
2 district and is filed with the clerk of the governing body of
3 the district. Upon verification by the clerk that the petition
4 contains the required number of signatures of registered
5 voters, the governing body shall adopt a resolution calling an
6 election on the question of allowing the sale, service or
7 consumption of alcoholic beverages by the drink on licensed
8 premises from noon until 10:00 p.m. on Christmas day. The
9 election shall be held within sixty days after the date the
10 petition is verified, or it may be held in conjunction with a
11 regular election of the governing body if that election occurs
12 within sixty days of such verification. The election shall be
13 called, conducted, counted and canvassed in substantially the
14 same manner as provided for general elections in the county
15 under the Election Code or for special municipal elections in a
16 municipality under the Municipal Election Code. If [~~a~~] the
17 majority of the voters voting on the question [~~votes~~] vote
18 against continuing the sale, service or consumption of
19 alcoholic beverages by the drink on licensed premises from noon
20 until 10:00 p.m. on Christmas day, then such sales and
21 consumption shall be prohibited. If [~~a~~] the majority of the
22 voters voting on the question [~~votes~~] vote to allow continued
23 sale, service and consumption of alcoholic beverages by the
24 drink on licensed premises from noon until 10:00 p.m. on
25 Christmas day, then such sales and consumption shall be allowed

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1 to continue. The question then shall not be submitted again to
2 the voters within two years of the date of the last election on
3 the question.

4 G. Notwithstanding the provisions of Subsection E
5 of this section, any Indian tribe or pueblo whose lands are
6 wholly situated within the state that has, by statute,
7 ordinance or resolution, elected to permit the sale, possession
8 or consumption of alcoholic beverages on lands within the
9 territorial boundaries of the tribe or pueblo may, by statute,
10 ordinance or resolution of the governing body of the Indian
11 tribe or pueblo, permit Sunday sales by the drink on the
12 licensed premises of licensees on lands within the territorial
13 boundaries of the tribe or pueblo; provided that a certified
14 copy of such enactment is filed with the office of the director
15 and [øf] with the secretary of state.

16 H. Subject to the provisions of Subsection I of
17 this section, a dispenser or retailer, upon payment of an
18 additional fee of one hundred dollars (\$100), may obtain a
19 permit to sell alcoholic beverages in unbroken packages for
20 consumption off the licensed premises on Sundays from 12:00
21 noon until midnight, and in those years when December 31 falls
22 on a Sunday, from 12:00 noon on December 31 until 2:00 a.m. of
23 the following day. The permit shall expire on June 30 of each
24 year and may be renewed from year to year upon application for
25 renewal and payment of the required fee. The permit fee shall

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1 not be prorated. Sales made pursuant to the provisions of this
2 subsection shall be called "Sunday package sales".

3 I. If a petition requesting the governing body of a
4 local option district to call an election on the question of
5 continuing to allow sales of alcoholic beverages in unbroken
6 packages for consumption off the licensed premises on Sundays
7 is filed with the clerk of the governing body and the clerk of
8 the governing body certifies that the petition is signed by at
9 least ten percent of the number of registered voters of the
10 local option district [~~and the clerk of the governing body~~
11 ~~verifies the petition signatures~~], the governing body shall
12 adopt a resolution calling an election on the question. The
13 election shall be held within sixty days of the date that the
14 petition is [~~verified, or it~~] certified. The election may be
15 held in conjunction with a regular election of the governing
16 body, if the regular election occurs within sixty days of the
17 petition [~~verification~~] certification. The election shall be
18 called, conducted, counted and canvassed substantially in the
19 manner provided by law for general elections within a county or
20 for special municipal elections within a municipality. If [~~a~~]
21 the majority of the voters of the local option district voting
22 in the election [~~votes~~] vote to allow the sale of alcoholic
23 beverages in unbroken packages for consumption off the licensed
24 premises, then those sales shall continue to be allowed. If
25 [~~a~~] the majority of the voters of the local option district

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1 voting in the election [~~votes~~] vote not to allow the Sunday
2 package sales, then those Sunday package sales shall be
3 prohibited commencing the first Sunday after the results of the
4 election are certified. Following the election, the question
5 of allowing the Sunday package sales shall not be submitted
6 again to the voters within two years of the date of the last
7 election on the question.

8 J. Sunday sales of alcoholic beverages shall be
9 permitted at resorts and at horse racetracks statewide pursuant
10 to the provisions of Section 60-7A-2 NMSA 1978."