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HOUSE BILL 423

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; INCREASING THE HOURS OF
CONSUMPTION OF ALCOHOLIC BEVERAGES ON SUNDAYS AT LICENSED
PREMISES.

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. Provided that nothing in this section shall
prohibit the consumption at any time of alcoholic beverages in
guest rooms of hotels, alcoholic beverages shall be sold,
served and consumed on licensed premises only during the
following hours and days:

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1 (1) on Mondays from 7:00 a.m. until midnight;

2 (2) on ~~[other weekdays]~~ Tuesdays through
3 Saturdays from after midnight of the previous day until 2:00
4 a.m., then from 7:00 a.m. until midnight, except as provided in
5 Subsections D and F of this section; and

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

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

18 C. A dispenser, restaurant licensee or club may,
19 upon payment of an additional fee of one hundred dollars
20 (\$100), obtain a permit to sell, serve or permit the
21 consumption of alcoholic beverages by the drink on the licensed
22 premises on Sundays, ~~[from 12:00 noon until midnight and in~~
23 ~~those years when December 31 falls on a Sunday from 12:00 noon~~
24 ~~until 2:00 a.m. of the following day, except as otherwise~~
25 ~~provided in Subsection E of this section]~~ subject to approval

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1 obtained pursuant to the process set forth in Subsection E of
2 this section. Alcoholic beverages may be sold, served and
3 consumed from 10:00 a.m. until midnight as set forth in the
4 licensee's Sunday sales permit, except as otherwise provided
5 for a restaurant licensee in Section 60-6A-4 NMSA 1978. The
6 Sunday sales permit shall expire on June 30 of each year and
7 may be renewed from year to year upon application for renewal
8 and payment of the required fee. The permit fee shall not be
9 prorated. Sales made pursuant to this subsection or Subsection
10 G of this section shall be called "Sunday sales".

11 D. Retailers, dispensers, canopy licensees that
12 were replaced by dispenser's licensees pursuant to Section
13 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
14 governmental licensees or their lessees shall not sell, serve,
15 deliver or allow the consumption of alcoholic beverages on the
16 licensed premises from 2:00 a.m. on Christmas day until 7:00
17 a.m. on the day after Christmas, except as permitted pursuant
18 to Subsection F of this section.

19 E. Sunday sales pursuant to the provisions of
20 Subsection C of this section are permitted in a local option
21 district that voted to permit them. If in that election a
22 majority of the voters in a local option district voted "no" on
23 the question "Shall Sunday sales of alcoholic beverages by the
24 drink for consumption on the licensed premises of licensees be
25 allowed in this local option district?", Sunday sales are

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1 unlawful in that local option district upon certification of
2 the election returns unless the provisions of Subsection J of
3 this section apply. The question shall not again be placed on
4 the ballot in that local option district until:

5 (1) at least one year has passed; and

6 (2) a petition is filed with the local
7 governing body bearing the signatures of registered qualified
8 electors of the local option district equal in number to ten
9 percent of the number of votes cast and counted in the local
10 option district for governor in the last preceding general
11 election in which a governor was elected. The signatures on
12 the petition shall be verified by the clerk of the county in
13 which the local option district is situated.

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

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

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1 majority of the voters voting on the question votes to allow
2 continued sale, service and consumption of alcoholic beverages
3 by the drink on licensed premises from noon until 10:00 p.m. on
4 Christmas day, then such sales and consumption shall be allowed
5 to continue. The question then shall not be submitted again to
6 the voters within two years of the date of the last election on
7 the question.

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

21 H. Subject to the provisions of Subsection I of
22 this section, a dispenser or retailer, upon payment of an
23 additional fee of one hundred dollars (\$100), may obtain a
24 permit to sell alcoholic beverages in unbroken packages for
25 consumption off the licensed premises on Sundays from [~~12:00~~]

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1 noon until midnight, and in those years when December 31 falls
2 on a Sunday, from [~~12:00~~] noon on December 31 until 2:00 a.m.
3 of the following day. The permit shall expire on June 30 of
4 each year and may be renewed from year to year upon application
5 for renewal and payment of the required fee. The permit fee
6 shall not be prorated. Sales made pursuant to the provisions
7 of this subsection shall be called "Sunday package sales".

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

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1 allow the sale of alcoholic beverages in unbroken packages for
2 consumption off the licensed premises, then those sales shall
3 continue to be allowed. If a majority of the voters of the
4 local option district voting in the election votes not to allow
5 the Sunday package sales, then those Sunday package sales shall
6 be prohibited commencing the first Sunday after the results of
7 the election are certified. Following the election, the
8 question of allowing the Sunday package sales shall not be
9 submitted again to the voters within two years of the date of
10 the last election on the question.

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