

FIFTY-FIFTH LEGISLATURE
FIRST SESSION

March 9, 2021

SENATE FLOOR AMENDMENT number 5 to HOUSE TAXATION AND REVENUE
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 255, as amended

Amendment sponsored by Senator Cliff R. Pirtle

1. On page 31, strike lines 2 through 9 in their entirety.
2. Reletter the succeeding subsection accordingly.
3. On page 38, strike lines 21 through 25, and on page 39, strike lines 1 through 6 in their entirety.
4. Reletter the succeeding subsections accordingly.
5. On page 47, strike lines 17 through 24 in their entirety.
6. Reletter the succeeding subsection accordingly.
7. On page 62, between lines 15 and 16, insert the following new section:

"SECTION 26. 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--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:~~

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

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~~(2) on Tuesdays through Saturdays from after midnight of the previous day until 2:00 a.m., then from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section; and~~

~~(3) on Sundays only after midnight of the previous day until 2:00 a.m., except as provided in Subsections D and F of this section and Section 60-7A-2 NMSA 1978] from 7:00 a.m. until 2:00 a.m. on the following day.~~

B. Except as provided in Subsection C of this section, alcoholic beverages may be sold by a dispenser or a retailer in unbroken packages, for consumption off the licensed premises and not for resale [~~only on Mondays through Saturdays~~] from 7:00 a.m. until midnight [~~except as provided in Subsections E and G of this section~~].

C. The governing body of a local option district that is a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census or that is a municipality located within a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census may pass an ordinance to place restrictions, in addition to those provided in this section, on the hours during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale. The ordinance may restrict sales between 7:00 a.m. and 10:00 a.m. and shall provide the hours between 7:00 a.m. and 10:00 a.m., if any, during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale.

~~[D. A dispenser, restaurant licensee or club may, upon payment of an additional fee of one hundred dollars (\$100), obtain a~~

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~~permit to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises on Sundays, subject to approval obtained pursuant to the process set forth in Subsection F of this section. Alcoholic beverages may be sold, served and consumed from 11:00 a.m. until midnight as set forth in the licensee's Sunday sales permit, and in those years when December 31 falls on a Sunday, from 11:00 a.m. until 2:00 a.m. of the following day, except as otherwise provided for a restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday sales permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to this subsection or Subsection H of this section shall be called "Sunday sales".~~

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

~~F. Sunday sales pursuant to the provisions of Subsection D of this section are permitted in a local option district that voted to permit them. If in that election a majority of the voters in a local option district voted "no" on the question "Shall Sunday sales of alcoholic beverages by the drink for consumption on the licensed premises of licensees be allowed in this local option district?", Sunday sales are unlawful in that local option district upon certification of the election returns unless the provisions of Subsection K of this section apply. The question shall not again be placed on the ballot in that local option district until at least one year has passed and:~~

~~(1) the local governing body of the local option~~

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~~district passes a resolution calling for the question to be placed on a regular election ballot or adopts a proclamation calling for the question to be placed before the voters in a special local election; or~~

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

~~G. On and after July 1, 2002, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or lessees of these licensees; provided that the licensees have current, valid food service establishment permits, may sell, serve or allow the consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, except in a local option district in which, pursuant to election under this subsection, a majority of the voters voting on the question votes against continuing such sales or consumption on Christmas day. An election shall be held on the question of whether to continue to allow the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day in a local option district, if a petition requesting the governing body of that district to call the election is signed by at least ten percent of the registered voters of the district and is filed with the clerk of the governing body of the district. Upon verification by the clerk that the petition contains the required number of signatures of registered voters, the governing body shall pass a resolution calling for the question to be placed on a regular election ballot or adopt a proclamation calling for the question of allowing the sale, service or consumption of alcoholic beverages by the drink on~~

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~~licensed premises from noon until 10:00 p.m. on Christmas day to be placed before the voters in a special local election. The election may also be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified electors having been submitted. The election shall be held pursuant to the Local Election Act. If a majority of the voters voting on the question votes against continuing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be prohibited. If a majority of the voters voting on the question votes to allow continued sale, service and consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be allowed to continue. The question then shall not be submitted again to the voters within two years of the date of the last election on the question.~~

~~H. Notwithstanding the provisions of Subsection F of this section, any Indian nation, tribe or pueblo whose lands are wholly situated within the state that has, by statute, ordinance or resolution, elected to permit the sale, possession or consumption of alcoholic beverages on lands within the territorial boundaries of the Indian nation, tribe or pueblo may, by statute, ordinance or resolution of the governing body of the Indian nation, tribe or pueblo, permit Sunday sales by the drink on the licensed premises of licensees on lands within the territorial boundaries of the Indian nation, tribe or pueblo; provided that a certified copy of such enactment is filed with the office of the director and with the secretary of state.~~

~~I. Subject to the provisions of Subsection J of this section, a dispenser or retailer, upon payment of an additional fee of one hundred dollars (\$100), may obtain a permit to sell alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays from noon until midnight, and in those years when December 31 falls on a Sunday, from noon on December 31 until~~

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~~2:00 a.m. of the following day. The permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to the provisions of this subsection shall be called "Sunday package sales".~~

~~J. If a petition requesting the governing body of a local option district to call an election on the question of continuing to allow sales of alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays is filed with the clerk of the governing body and that petition is signed by at least ten percent of the number of registered voters of the local option district and the clerk of the governing body verifies the petition signatures, the governing body shall pass a resolution calling for the question to be placed on a regular election ballot or adopt a proclamation calling for the question to be placed before the voters in a special local election on the question. The election may also be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified electors having been submitted. The election shall be held within ninety days of the date that the petition is verified pursuant to the provisions of the Local Election Act; provided that the date of the election is not in conflict with the provisions of Section 1-24-1 NMSA 1978. If a majority of the voters of the local option district voting in the election votes to allow the sale of alcoholic beverages in unbroken packages for consumption off the licensed premises, then those sales shall continue to be allowed. If a majority of the voters of the local option district voting in the election votes not to allow the Sunday package sales, then those Sunday package sales shall be prohibited commencing the first Sunday after the results of the election are certified. Following the election, the question of allowing the Sunday package sales shall not be submitted again to the voters within two years of the date of the last election on the question.~~

~~K. Sunday sales of alcoholic beverages shall be permitted~~

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~~at resorts and at horse racetracks statewide pursuant to the provisions of Section 60-7A-2 NMSA 1978.]".~~

8. Renumber the succeeding sections accordingly.
9. On page 68, line 12, after "60-6E-6", insert ", 60-7A-2".
10. On page 68, line 15, strike "Section" and insert in lieu thereof "Sections 48 and".

Cliff R. Pirtle

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____