

FIFTY-FIFTH LEGISLATURE
FIRST SESSION, 2021

HB 255/a

March 3, 2021

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

**HOUSE TAXATION & REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 255, as amended**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike all house floor amendments.
2. On page 1, line 18, after "ACT", insert "; ALLOWING DISPENSER'S LICENSES TO BE TRANSFERRED OUT OF A LOCAL OPTION DISTRICT INTACT".
3. On page 2, line 4, strike the colon and insert in lieu thereof a comma.
4. On page 2, line 5, strike the paragraph designation "(1)".
5. On page 2, line 7, strike "; and" and insert in lieu thereof a period.
6. On page 2, strike lines 8 through 10 in their entirety.
7. On page 4, line 1, after "means", strike the remainder of the line and strike line 2 through the comma.
8. On page 4, line 7, after the semicolon, insert "and".
9. On page 4, line 9, strike "; and" and insert in lieu thereof a period and closing quotation mark.
10. On page 4, strike lines 10 through 15 in their entirety.
11. On page 4, line 24, strike the colon and insert in lieu thereof a comma.

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12. On page 4, line 25, strike the paragraph designation "(1)".
13. On page 5, line 2, strike "; and" and insert in lieu thereof a period.
14. On page 5, strike lines 3 through 5 in their entirety.
15. On page 6, line 7, after "means", strike the remainder of the line and strike line 8 through the comma.
16. On page 6, line 13, after the semicolon, insert "and".
17. On page 6, line 15, strike "; and" and insert in lieu thereof a period and closing quotation mark.
18. On page 6, strike lines 16 through 21 in their entirety.
19. On page 6, line 24, strike "RETAILER'S OR".
20. On page 7, line 3, strike the colon and insert in lieu thereof a comma.
21. On page 7, line 4, strike the paragraph designation "(1)".
22. On page 7, line 6, strike "; and" and insert in lieu thereof a period.
23. On page 7, strike lines 7 through 10 in their entirety.
24. On page 8, line 11, after the semicolon, insert "and".
25. On page 8, line 17, strike "; and" and insert in lieu thereof a period and closing quotation mark.
26. On page 8, strike lines 18 through 23 in their entirety.

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27. On page 12, line 5, after "employees", insert "or independent contractors".

28. On page 12, line 11, after "occurrence", insert ", which endorsement shall provide coverage for employees or independent contractors of the third-party alcohol delivery service".

29. On page 23, strike lines 5 through 13 in their entirety and insert in lieu thereof the following new subsection:

"B. A local option district that has approved the issuance of restaurant licenses for the sale of beer and wine is deemed to have approved the issuance of restaurant licenses for the sale of beer, wine and spirituous liquors in restaurants unless the local option district affirmatively adopts an ordinance prohibiting such licenses, except that a local option district within a class B county having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census that has approved the issuance of restaurant licenses for the sale of beer and wine is deemed not to have approved the issuance of restaurant licenses for the sale of beer, wine and spirituous liquors in restaurants unless the local option district affirmatively adopts an ordinance approving such licenses."

30. On page 26, line 22, strike the closing quotation mark.

31. On page 26, between lines 22 and 23, insert the following new subsection:

"I. A person that has held a restaurant A license in good standing for a period of at least twelve consecutive months shall, upon payment of a fee of one thousand two hundred dollars (\$1,200), be entitled to a restaurant A New Mexico spirituous liquors permit. In addition to being permitted to sell and serve beer and wine as authorized by a restaurant A license, the restaurant A New Mexico spirituous liquors permit shall entitle the licensee to sell and serve beer, wine and spirituous liquors produced or bottled by or

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for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978."".

32. On page 50, between lines 11 and 12, insert the following new section:

"SECTION 17. Section 60-6B-12 NMSA 1978 (being Laws 1981, Chapter 39, Section 113, as amended) is amended to read:

"60-6B-12. INTER-LOCAL OPTION DISTRICT AND INTER-COUNTY TRANSFERS.--

A. Dispenser's and retailer's licenses originally issued before July 1, 1981, except rural dispenser's and rural retailer's licenses [~~and canopy licenses~~] that were replaced by dispenser's licenses pursuant to Section 60-6B-16 NMSA 1978, and except canopy licenses replaced by dispenser's licenses pursuant to Section 60-6B-16 NMSA 1978 before calendar year 2017 or after calendar year 2020, may be transferred to any location within the state, except class B counties having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census, the municipalities located within those class B counties and any municipality or county that prohibits by election the transfer of a license from another local option district, without regard to the limitations on the maximum number of licenses provided in Section 60-6A-18 NMSA 1978, not otherwise contrary to law, subject to the approval of transferring locations of those liquor licenses by the governing body for that location; provided that the requirements of the Liquor Control Act and department regulations for the transfer of licenses are fulfilled; and provided further that:

(1) beginning in calendar year 1997, no more than ten dispenser's or retailer's licenses shall be transferred to any local option district in any calendar year; and

(2) the dispenser's or retailer's licenses transferred under this section shall count in the computation of the

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limitation of the maximum number of licenses that may be issued in the future in any local option district as provided in Section 60-6A-18 NMSA 1978 for the purpose of determining whether additional licenses may be issued in the local option district under the provisions of Subsection H of Section 60-6B-2 NMSA 1978.

B. Transfer of location of a liquor license pursuant to Subsection A of this section shall become effective upon approval of the local governing body, unless within one hundred twenty days after the effective date of the Liquor Control Act a petition requesting an election on the question of approval of statewide transfers of liquor licenses into that local option district is filed with the clerk of the local option district and the petition is signed by at least five percent of the number of registered voters of the district. The clerk of the district shall verify the petition signatures. If the petition is verified as containing the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of approving or disapproving statewide transfers of liquor licenses into that district. Notice of such election shall be published as provided in [~~Section 3-8-35 NMSA 1978~~] the Local Election Act, and the election shall be held within sixty days after the date the petition is verified or it may be held in conjunction with a regular election of the governing body if such election occurs within sixty days after the date of verification. If a majority of the registered voters of the district voting in such election votes to approve statewide transfers of liquor licenses into the local option district, each license proposing to be transferred shall be subject to the approval of the governing body. If the voters of the district voting in the election vote against the approval, then all statewide transfers of liquor licenses pursuant to Subsection A of this section shall be prohibited in that district, unless a petition is filed requesting the question be again submitted to the voters as provided in this subsection. The question of approving or disapproving statewide transfers of liquor licenses into the local option district shall not be submitted again within two years from the date of the last election on the question.

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C. Any dispenser's license transferred pursuant to this section outside its local option district shall only entitle the licensee to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises. This subsection shall not apply to any license transferred out of a class B county having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census.

D. Rural dispenser's, rural retailer's and rural club licenses issued under any former act may be transferred to any location, subject to the restrictions as to location contained in the Liquor Control Act, within the unincorporated area of the county in which they are currently located; provided that they shall not be transferred to any location within ten miles of another licensed premises; and provided further that all requirements of the Liquor Control Act and department regulations for the transfer of licenses are fulfilled."".

33. On page 64, between lines 24 and 25, insert the following new section:

"SECTION 28. Section 60-7A-13 NMSA 1978 (being Laws 1981, Chapter 39, Section 79, as amended) is amended to read:

"60-7A-13. SALES BY CLUBS.--

A. Any club licensed pursuant to the provisions of the Liquor Control Act shall only have the right to sell alcoholic beverages by the drink and wine by the bottle for consumption on the premises.

B. Except as otherwise provided in this section, it is unlawful and grounds for suspension or revocation of its license for a club to:

(1) solicit by advertising or any other means public patronage of its alcoholic beverage facilities. In the event the

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club solicits public patronage of its other facilities, alcoholic beverages shall not be sold, served or consumed on the premises while the other facilities are being used by or operated for the benefit of the general public, unless the alcoholic beverage facilities are separate from the other facilities and the general public is not permitted to enter any part of the facilities where alcoholic beverages are being sold, served or consumed; or

(2) serve, sell or permit the consumption of alcoholic beverages to persons other than members and their bona fide guests.

C. A club licensed pursuant to the provisions of the Liquor Control Act may allow its facilities, including its licensed premises, to be used, for activities other than its own, no more than [~~two~~] four times in a calendar year for fundraising events held by other nonprofit organizations.

D. For the purposes of this section:

(1) "bona fide guest" means a person whose presence in the club is in response to a specific invitation by a member and for whom the member assumes responsibility; and

(2) "member" includes the adult spouse and the children of a member who pays membership dues or of a deceased member who paid membership dues or a member of an official auxiliary or subsidiary group of the club who has been issued a personal identification card in accordance with the rules and regulations of the club."".

34. On page 68, between lines 16 and 17, insert the following new section:

"SECTION 35. DELAYED REPEAL.--Section 5 of this act is repealed effective July 1, 2025."

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35. Renumber sections to correspond with these amendments.

Respectfully submitted,

Joseph Cervantes, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 4 Against
Yes: 5
No: Baca, Lopez, Moores, Pirtle
Excused: None
Absent: None

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