

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 77

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RICK MIERA

FOR THE DWI OVERSIGHT TASK FORCE

AN ACT

RELATING TO TAXATION; AUTHORIZING COUNTIES TO IMPOSE A LOCAL LIQUOR EXCISE TAX; PROVIDING FOR ELECTIONS; AMENDING SECTIONS OF THE LOCAL LIQUOR EXCISE TAX ACT.

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

Section 1. Section 7-24-9 NMSA 1978 (being Laws 1989, Chapter 326, Section 2) is amended to read:

"7-24-9. DEFINITIONS. -- As used in the Local Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters;

Underscored material = new  
[bracketed material] = delete

1                   ~~[B. "county" means a class B county having a~~  
2 ~~population of more than fifty six thousand but less than~~  
3 ~~seventy five thousand, according to the most recent federal~~  
4 ~~decennial census or any subsequent decennial census, and having~~  
5 ~~a net taxable value for rate setting purposes for the 1988 or~~  
6 ~~any subsequent property tax year of more than five hundred~~  
7 ~~million dollars (\$500,000,000) but less than seven hundred~~  
8 ~~million dollars (\$700,000,000);]~~

9                   B. "board" means the board of county commissioners  
10 of a county;

11                   C. "department" means the taxation and revenue  
12 department, the secretary of taxation and revenue or any  
13 employee of the department exercising authority lawfully  
14 delegated to that employee by the secretary;

15                   ~~[D. "governing body" means the board of county~~  
16 ~~commissioners of a county;~~

17                   ~~E.]~~ D. "person" means any individual, estate,  
18 trust, receiver, cooperative association, club, corporation,  
19 company, firm, partnership, joint venture, syndicate or other  
20 association; "person" also means, to the extent permitted by  
21 law, any federal, state or other governmental unit or  
22 subdivision or agency, department or instrumentality thereof;

23                   ~~[F.]~~ E. "price" means the total amount of money or  
24 the reasonable value of other consideration or both paid for  
25 alcoholic beverages, inclusive of the amount of any tax paid

Underscored material = new  
[bracketed material] = delete

1 pursuant to the Liquor Excise Tax Act; ~~and~~

2 F. "programs for education and prevention" means  
3 projects designed to reduce the misuse or abuse of alcohol or  
4 other drugs. "Programs for education and prevention" includes  
5 school-based education programs, community-based education  
6 programs, early intervention services, court-ordered remedial  
7 services, peer-support services, community-based prevention  
8 projects, juvenile-oriented prevention projects and special  
9 projects designed to serve high-risk populations;

10 G. "retailer" means any person having a place of  
11 business within the county who sells, offers for sale or  
12 possesses for the purpose of selling alcoholic beverages within  
13 the county; and

14 H. "treatment services" means organized, clinically  
15 appropriate interventions designed to rehabilitate persons who  
16 misuse or abuse alcohol or other drugs, or support services for  
17 the victims of that misuse or abuse. "Treatment services"  
18 includes outpatient counseling, aftercare and relapse  
19 intervention, family counseling, residential treatment,  
20 inpatient treatment, detoxification treatment, social and  
21 medical services, vocational services, juvenile-oriented  
22 services and special projects designed to serve groups in need  
23 of expanded treatment resources."

24 Section 2. Section 7-24-10 NMSA 1978 (being Laws 1989,  
25 Chapter 326, Section 3) is amended to read:

. 113207.2

Underscored material = new  
[bracketed material] = delete

1 "7-24-10. AUTHORIZATION TO IMPOSE LOCAL LIQUOR EXCISE  
2 TAX- -RATE- -USE OF PROCEEDS- -FUND CREATED- -ELECTION REQUIRED. --

3 A. The majority of the members elected to the  
4 [~~governing body~~] board may enact an ordinance imposing on any  
5 retailer an excise tax on the price paid by the retailer for  
6 alcoholic beverages purchased by the retailer upon which the tax  
7 imposed by this section has not been paid. The tax may be  
8 imposed at a rate not to exceed five percent; provided that any  
9 lower rate shall be an even multiple of one percent. The tax  
10 imposed under this section may be referred to as the "local  
11 liquor excise tax". If a petition requesting the board to  
12 impose a local liquor excise tax is filed with the county clerk  
13 and the county clerk verifies that the petition is signed by at  
14 least fifteen percent of the registered voters in the county,  
15 the board shall adopt an ordinance imposing a local liquor  
16 excise tax. Any tax imposed under this section shall be for a  
17 period of [~~not more than three~~] five years from the effective  
18 date of the ordinance imposing the tax.

19 [~~B. The governing body at the time of enacting an~~  
20 ~~ordinance imposing the tax authorized in Subsection A of this~~  
21 ~~section shall dedicate the revenue to fund educational programs~~  
22 ~~and prevention and treatment of alcoholism and drug abuse within~~  
23 ~~the county and for no other purpose. After approval of the~~  
24 ~~imposition of a local liquor excise tax by the voters but before~~  
25 ~~the effective date of the ordinance, the governing body shall~~

Underscored material = new  
[bracketed material] = delete

1 ~~hold a public meeting for the purpose of inviting comment on and~~  
2 ~~suggestions for the most appropriate programs on which to expend~~  
3 ~~the revenue produced by the tax. The governing body shall~~  
4 ~~invite representatives from the appropriate Indian tribes,~~  
5 ~~nations and pueblos to the meeting. If the governing body~~  
6 ~~awards any contract using funds derived from the local liquor~~  
7 ~~excise tax, it shall do so only through a selection process~~  
8 ~~requiring submission of sealed bids or proposals after public~~  
9 ~~notice of the opportunity to submit the sealed bids or~~  
10 ~~proposals.~~

11 ~~C. The governing body enacting an ordinance imposing~~  
12 ~~the local liquor excise tax shall submit the question of~~  
13 ~~imposing the tax to the qualified voters of the county at a~~  
14 ~~regular or special election.~~

15 ~~D. Only those voters who are registered within the~~  
16 ~~county shall be permitted to vote. The election shall be~~  
17 ~~called, conducted and canvassed in substantially the same manner~~  
18 ~~as provided by law for general elections.]~~

19 B. At the time of enacting an ordinance imposing a  
20 local liquor excise tax, the board shall dedicate the revenue  
21 from the tax to fund programs for education and prevention and  
22 treatment services. All local liquor excise tax proceeds shall  
23 be deposited in a separate fund created by the board and shall  
24 not be deposited in the county general fund. All income earned  
25 on the separate fund shall be deposited in that fund. All money

Underscored material = new  
[bracketed material] = delete

1 deposited in the separate fund shall be used for programs for  
2 education and prevention and treatment services. When the board  
3 awards a contract using money derived from the local liquor  
4 excise tax, it shall do so in accordance with the provisions of  
5 the Procurement Code.

6 C. An ordinance imposing a local liquor excise tax  
7 shall not take effect until after an election is held and a  
8 majority of the registered voters of the county voting in the  
9 election votes in favor of imposing the tax. The question of  
10 imposing the local liquor excise tax may be submitted to the  
11 registered voters of the county at a general election or at a  
12 special election called by the board for that purpose. A  
13 special election shall be held within ninety days after the date  
14 the ordinance imposing the tax is adopted by the board.

15 ~~[E.]~~ D. If at an election called pursuant to this  
16 section a majority of the voters voting on the question ~~[vote]~~  
17 votes in the affirmative on the question, then the ordinance  
18 imposing the local liquor excise tax shall be approved. If at  
19 such an election a majority of the voters voting on the question  
20 ~~[fail]~~ fails to approve the question, then the ordinance shall  
21 be disapproved and ~~[the question required to be submitted by~~  
22 ~~Subsection B of this section shall not be submitted to the~~  
23 ~~voters]~~ the board shall not enact another ordinance imposing a  
24 local liquor excise tax for a period of at least one year from  
25 the date of the election.

. 113207. 2

Underscored material = new  
[bracketed material] = delete

1           ~~[F.]~~ E. Any ordinance enacted under the provisions  
2 of this section ~~[which]~~ that imposes a local liquor excise tax  
3 ~~[or changes the rate of tax imposed]~~ shall include an effective  
4 date ~~[which is the first day of any month which begins no~~  
5 ~~earlier than ninety days after the date of the election]~~ of  
6 either July 1 or January 1, whichever date occurs first  
7 following the expiration of at least three months from the date  
8 the results of the election are certified to be in favor of  
9 adopting the ordinance. A certified copy of any ordinance  
10 imposing a local liquor excise tax shall be mailed or personally  
11 delivered to the department within five days after the ordinance  
12 is certified to have been approved by the voters.

13           ~~[G.—Any ordinance repealing the imposition of a tax~~  
14 ~~under the provisions of this section shall contain an effective~~  
15 ~~date which is the first day of any month beginning no earlier~~  
16 ~~than sixty days from the date the ordinance repealing the tax is~~  
17 ~~adopted by the governing body.—A certified copy of any~~  
18 ~~ordinance repealing a local liquor excise tax shall be mailed or~~  
19 ~~personally delivered to the department within five days of the~~  
20 ~~date the ordinance is adopted.]~~

21           F. No later than six months prior to the expiration  
22 date of an ordinance imposing a local liquor excise tax, the  
23 board shall enact a new ordinance reimposing the tax at a rate  
24 authorized in Subsection A of this section, for a period of five  
25 years from the date the tax expires. The ordinance reimposing

Underscored material = new  
[bracketed material] = delete

1 the local liquor excise tax is subject to the election  
2 requirements of this section."

3 Section 3. Section 7-24-10.1 NMSA 1978 (being Laws 1992,  
4 Chapter 35, Section 1) is amended to read:

5 "7-24-10.1. USE OF TAX PROCEEDS--LOCAL LIQUOR EXCISE TAX  
6 COMMITTEE--JOINT POWERS AGREEMENT--COMMUNITY PARTICIPATION.--

7 A. Prior to ~~[the]~~ an election on the question of  
8 imposing a local liquor excise tax pursuant to the provisions of  
9 the Local Liquor Excise Tax Act, the ~~[governing body of a~~  
10 ~~county]~~ board shall enter into a joint powers agreement with the  
11 governing body of the most populated municipality and the  
12 governing bodies of any other municipalities in the county that  
13 choose to be parties to the agreement to provide for the use and  
14 administration of the proposed local liquor excise tax proceeds.  
15 The agreement shall provide for the establishment and  
16 appointment of a local liquor excise tax committee to provide  
17 advice, assist in preventing duplication and supplanting of  
18 program funding and make recommendations to the ~~[governing body~~  
19 ~~of a county]~~ board and the municipal governing bodies that are  
20 parties to the agreement on the use of the tax proceeds and may  
21 include agreements that:

22 (1) clearly specify the use of the proceeds of  
23 the proposed local liquor excise tax, including the  
24 identification of specific local programs, agencies or entities  
25 that will be funded from the tax proceeds; and

. 113207.2



Underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(2) determine the allocation of election expenses among the parties to the agreement.

B. Prior to ~~[any]~~ the agreement by the ~~[governing body of a county]~~ board and the municipal governing bodies for use of the proposed local liquor excise tax proceeds, the local liquor excise tax committee established pursuant to the ~~[joint powers agreement in]~~ provisions of Subsection A of this section shall conduct a public hearing for the purpose of inviting public comment on use of the proposed local liquor excise tax proceeds. The committee shall make every effort to provide public notice of the hearing and to invite a broad cross section of community representatives and groups to comment on community needs. Following the hearing, the committee shall make its funding recommendations to the ~~[governing body of a county]~~ board and the municipal governing bodies. "

Section 4. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1997.

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

February 4, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
been referred

HOUSE BILL 77

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
VOTERS AND ELECTIONS COMMITTEE.

Respectfully submitted,

---

Fred Luna, Chairman

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HBIC/HB 77

Page 11

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 2 Against

Yes: 6

No: Alwin, Corley

Excused: Hobbs, Kissner, Olguin, Rodella

Absent: Varela

M \H0077

Underscored material = new  
[bracketed material] = delete

# **State of New Mexico House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**February 13, 1997**

**Mr. Speaker:**

**Your VOTERS AND ELECTIONS COMMITTEE, to whom has  
been referred**

**HOUSE BILL 77**

**has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
TAXATION AND REVENUE COMMITTEE.**

**Respectfully submitted,**

---

**Edward C. Sandoval, Chairman**

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HVEC/HB 77

Page 13

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 1 Against

Yes: 8

No: Bird

Excused: Lujan, Nicely, Sanchez

Absent: None

M \H0077

Underscored material = new  
[bracketed material] = delete