

SENATE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO LIQUOR CONTROL; PROVIDING FOR CERTAIN LOCAL OPTION DISTRICTS TO RESTRICT THE HOURS OF SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF A 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:

.204741.1

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

underscored material = new  
[bracketed material] = delete

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

2 (2) on Tuesdays through Saturdays from after  
3 midnight of the previous day until 2:00 a.m., then from 7:00  
4 a.m. until midnight, except as provided in Subsections [~~D~~ and  
5 ~~F~~] E and G 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~~] D and F of this section and Section 60-7A-2 NMSA  
9 1978.

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

16 C. A local option district that is a class B county  
17 with a population greater than seventy thousand and less than  
18 seventy-six thousand according to the most recent federal  
19 decennial census may place restrictions, in addition to those  
20 provided in this section, on the hours during which a dispenser  
21 or retailer may sell alcoholic beverages in unbroken packages  
22 for consumption off the licensed premises and not for resale,  
23 pursuant to petition and election as provided in this  
24 subsection. An election shall be held in the local option  
25 district on the question of whether and how to restrict the

.204741.1

underscored material = new  
[bracketed material] = delete

1 hours during which a dispenser or retailer may sell alcoholic  
2 beverages in unbroken packages for consumption off the licensed  
3 premises and not for resale, if a petition requesting the  
4 governing body of the district to call the election is signed  
5 by at least ten percent of the registered voters of the  
6 district and is filed with the clerk of the governing body of  
7 the district. The petition shall provide the hours, if any,  
8 during which a dispenser or retailer may sell alcoholic  
9 beverages in unbroken packages for consumption off the licensed  
10 premises and not for resale. Upon verification by the clerk  
11 that the petition contains the required number of signatures of  
12 registered voters, the governing body shall adopt a resolution  
13 calling an election on the question. The election shall be  
14 held within sixty days after the date the petition is verified,  
15 or it may be held in conjunction with a regular election of the  
16 governing body if that election occurs within sixty days of  
17 verification of the petition. The election shall be called,  
18 conducted, counted and canvassed in substantially the same  
19 manner as provided for general elections in the county under  
20 the Election Code or for special municipal elections in a  
21 municipality under the Municipal Election Code. If a majority  
22 of the voters voting on the question votes in favor of placing  
23 additional restrictions on the hours during which a dispenser  
24 or retailer may sell alcoholic beverages in unbroken packages  
25 for consumption off the licensed premises and not for resale,

.204741.1

underscored material = new  
[bracketed material] = delete

1 then the hours of sale shall be limited as approved by the  
2 voters. That question then shall not be submitted again to the  
3 voters within two years of the date of the last election on the  
4 question.

5           ~~[G.]~~ D. A dispenser, restaurant licensee or club  
6 may, upon payment of an additional fee of one hundred dollars  
7 (\$100), obtain a permit to sell, serve or permit the  
8 consumption of alcoholic beverages by the drink on the licensed  
9 premises on Sundays, subject to approval obtained pursuant to  
10 the process set forth in Subsection ~~[E]~~ F of this section.  
11 Alcoholic beverages may be sold, served and consumed from 11:00  
12 a.m. until midnight as set forth in the licensee's Sunday sales  
13 permit, except as otherwise provided for a restaurant licensee  
14 in Section 60-6A-4 NMSA 1978. The Sunday sales permit shall  
15 expire on June 30 of each year and may be renewed from year to  
16 year upon application for renewal and payment of the required  
17 fee. The permit fee shall not be prorated. Sales made  
18 pursuant to this subsection or Subsection ~~[G]~~ H of this section  
19 shall be called "Sunday sales".

20           ~~[D.]~~ E. Retailers, dispensers, canopy licensees  
21 that were replaced by dispenser's licensees pursuant to Section  
22 60-6B-16 NMSA 1978, restaurant licensees, club licensees and  
23 governmental licensees or their lessees shall not sell, serve,  
24 deliver or allow the consumption of alcoholic beverages on the  
25 licensed premises from 2:00 a.m. on Christmas day until 7:00

.204741.1

1 a.m. on the day after Christmas, except as permitted pursuant  
2 to Subsection [~~F~~] G of this section.

3 [~~E~~] F. Sunday sales pursuant to the provisions of  
4 Subsection [~~E~~] D of this section are permitted in a local  
5 option district that voted to permit them. If in that election  
6 a majority of the voters in a local option district voted "no"  
7 on the question "Shall Sunday sales of alcoholic beverages by  
8 the drink for consumption on the licensed premises of licensees  
9 be allowed in this local option district?", Sunday sales are  
10 unlawful in that local option district upon certification of  
11 the election returns unless the provisions of Subsection [~~J~~] K  
12 of this section apply. The question shall not again be placed  
13 on the ballot in that local option district until:

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

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

23 [~~F~~] G. On and after July 1, 2002, dispensers,  
24 canopy licensees that were replaced by dispenser's licensees  
25 pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees,

.204741.1

underscored material = new  
~~[bracketed material]~~ = delete

1 club licensees and governmental licensees or lessees of these  
2 licensees, provided that the licensees have current, valid food  
3 service establishment permits, may sell, serve or allow the  
4 consumption of alcoholic beverages by the drink on licensed  
5 premises from noon until 10:00 p.m. on Christmas day, except in  
6 a local option district in which, pursuant to petition and  
7 election under this subsection, a majority of the voters voting  
8 on the question votes against continuing such sales or  
9 consumption on Christmas day. An election shall be held on the  
10 question of whether to continue to allow the sale, service or  
11 consumption of alcoholic beverages by the drink on licensed  
12 premises from noon until 10:00 p.m. on Christmas day in a local  
13 option district, if a petition requesting the governing body of  
14 that district to call the election is signed by at least ten  
15 percent of the registered voters of the district and is filed  
16 with the clerk of the governing body of the district. Upon  
17 verification by the clerk that the petition contains the  
18 required number of signatures of registered voters, the  
19 governing body shall adopt a resolution calling an election on  
20 the question of allowing the sale, service or consumption of  
21 alcoholic beverages by the drink on licensed premises from noon  
22 until 10:00 p.m. on Christmas day. The election shall be held  
23 within sixty days after the date the petition is verified, or  
24 it may be held in conjunction with a regular election of the  
25 governing body if that election occurs within sixty days of

.204741.1

underscored material = new  
[bracketed material] = delete

1 such verification. The election shall be called, conducted,  
2 counted and canvassed in substantially the same manner as  
3 provided for general elections in the county under the Election  
4 Code or for special municipal elections in a municipality under  
5 the Municipal Election Code. If a majority of the voters  
6 voting on the question votes against continuing the sale,  
7 service or consumption of alcoholic beverages by the drink on  
8 licensed premises from noon until 10:00 p.m. on Christmas day,  
9 then such sales and consumption shall be prohibited. If a  
10 majority of the voters voting on the question votes to allow  
11 continued sale, service and consumption of alcoholic beverages  
12 by the drink on licensed premises from noon until 10:00 p.m. on  
13 Christmas day, then such sales and consumption shall be allowed  
14 to continue. The question then shall not be submitted again to  
15 the voters within two years of the date of the last election on  
16 the question.

17 [~~G.~~] H. Notwithstanding the provisions of  
18 Subsection [~~E~~] F of this section, any Indian nation, tribe or  
19 pueblo whose lands are wholly situated within the state that  
20 has, by statute, ordinance or resolution, elected to permit the  
21 sale, possession or consumption of alcoholic beverages on lands  
22 within the territorial boundaries of the Indian nation, tribe  
23 or pueblo may, by statute, ordinance or resolution of the  
24 governing body of the Indian nation, tribe or pueblo, permit  
25 Sunday sales by the drink on the licensed premises of licensees

.204741.1

underscored material = new  
[bracketed material] = delete

1 on lands within the territorial boundaries of the Indian  
2 nation, tribe or pueblo; provided that a certified copy of such  
3 enactment is filed with the office of the director and with the  
4 secretary of state.

5 ~~[H.]~~ I. Subject to the provisions of ~~[Subsection I]~~  
6 Subsections C and J of this section, a dispenser or retailer,  
7 upon payment of an additional fee of one hundred dollars  
8 (\$100), may obtain a permit to sell alcoholic beverages in  
9 unbroken packages for consumption off the licensed premises on  
10 Sundays from noon until midnight, and in those years when  
11 December 31 falls on a Sunday, from noon on December 31 until  
12 2:00 a.m. of the following day. The permit shall expire on  
13 June 30 of each year and may be renewed from year to year upon  
14 application for renewal and payment of the required fee. The  
15 permit fee shall not be prorated. Sales made pursuant to the  
16 provisions of this subsection shall be called "Sunday package  
17 sales".

18 ~~[I.]~~ J. Notwithstanding the provisions of  
19 Subsection C of this section, if a petition requesting the  
20 governing body of a local option district to call an election  
21 on the question of continuing to allow sales of alcoholic  
22 beverages in unbroken packages for consumption off the licensed  
23 premises on Sundays is filed with the clerk of the governing  
24 body and that petition is signed by at least ten percent of the  
25 number of registered voters of the local option district and

.204741.1

underscored material = new  
[bracketed material] = delete

1 the clerk of the governing body verifies the petition  
2 signatures, the governing body shall adopt a resolution calling  
3 an election on the question. The election shall be held within  
4 sixty days of the date that the petition is verified, or it may  
5 be held in conjunction with a regular election of the governing  
6 body, if the regular election occurs within sixty days of the  
7 petition verification. The election shall be called,  
8 conducted, counted and canvassed substantially in the manner  
9 provided by law for general elections within a county or for  
10 special municipal elections within a municipality. If a  
11 majority of the voters of the local option district voting in  
12 the election votes to allow the sale of alcoholic beverages in  
13 unbroken packages for consumption off the licensed premises,  
14 then those sales shall continue to be allowed. If a majority  
15 of the voters of the local option district voting in the  
16 election votes not to allow the Sunday package sales, then  
17 those Sunday package sales shall be prohibited commencing the  
18 first Sunday after the results of the election are certified.  
19 Following the election, the question of allowing the Sunday  
20 package sales shall not be submitted again to the voters within  
21 two years of the date of the last election on the question.

22 [~~J.~~] K. Sunday sales of alcoholic beverages shall  
23 be permitted at resorts and at horse racetracks statewide  
24 pursuant to the provisions of Section 60-7A-2 NMSA 1978."

25 SECTION 2. EFFECTIVE DATE.--The effective date of the

.204741.1

underscoring = 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

provisions of this act is July 1, 2017.

- 10 -