

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 991

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING THAT SUNDAY SALES FOR ON-LICENSED PREMISES CONSUMPTION AND SUNDAY PACKAGE SALES FOR OFF-LICENSED PREMISES CONSUMPTION MAY BEGIN AT 10:00 A.M.

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. 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;
- (2) on other weekdays from after midnight of

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 the previous day until 2:00 a.m., then from 7:00 a.m. until
2 midnight, except as provided in Subsections D and F of this
3 section; and

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

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

15 C. A dispenser, restaurant licensee or club may,
16 upon payment of an additional fee of one hundred dollars
17 (\$100), obtain a permit to sell, serve or permit the
18 consumption of alcoholic beverages by the drink on the licensed
19 premises on Sundays from [~~12:00 noon~~] 10:00 a.m. until midnight
20 and in those years when December 31 falls on a Sunday from
21 [~~12:00 noon~~] 10:00 a.m. until 2:00 a.m. of the following day,
22 except as otherwise provided in Subsection E of this section.
23 The permit shall expire on June 30 of each year and may be
24 renewed from year to year upon application for renewal and
25 payment of the required fee. The permit fee shall not be

.156228.1

underscoring material = new
[bracketed material] = delete

1 prorated. Sales made pursuant to this subsection or Subsection
2 G of this section shall be called "Sunday sales".

3 D. Retailers, dispensers, canopy licensees that
4 were replaced by dispenser's licensees pursuant to Section
5 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
6 governmental licensees or their lessees shall not sell, serve,
7 deliver or allow the consumption of alcoholic beverages on the
8 licensed premises from 2:00 a.m. on Christmas day until 7:00
9 a.m. on the day after Christmas, except as permitted pursuant
10 to Subsection F of this section.

11 E. Sunday sales pursuant to the provisions of
12 Subsection C of this section are permitted in a local option
13 district that voted to permit them. If in that election a
14 majority of the voters in a local option district voted "no" on
15 the question "Shall Sunday sales of alcoholic beverages by the
16 drink for consumption on the licensed premises of licensees be
17 allowed in this local option district?", Sunday sales are
18 unlawful in that local option district upon certification of
19 the election returns unless the provisions of Subsection J of
20 this section apply. The question shall not again be placed on
21 the ballot in that local option district until:

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

23 (2) a petition is filed with the local
24 governing body bearing the signatures of registered qualified
25 electors of the local option district equal in number to ten

.156228.1

underscored material = new
[bracketed material] = delete

1 percent of the number of votes cast and counted in the local
2 option district for governor in the last preceding general
3 election in which a governor was elected. The signatures on
4 the petition shall be verified by the clerk of the county in
5 which the local option district is situated.

6 F. On and after July 1, 2002, dispensers, canopy
7 licensees that were replaced by dispenser's licensees pursuant
8 to Section 60-6B-16 NMSA 1978, restaurant licensees, club
9 licensees and governmental licensees or lessees of these
10 licensees; provided that the licensees have current, valid food
11 service establishment permits, may sell, serve or allow the
12 consumption of alcoholic beverages by the drink on licensed
13 premises from noon until 10:00 p.m. on Christmas day, except in
14 a local option district in which, pursuant to petition and
15 election under this subsection, a majority of the voters voting
16 on the question [~~votes~~] vote against continuing such sales or
17 consumption on Christmas day. An election shall be held on the
18 question of whether to continue to allow the sale, service or
19 consumption of alcoholic beverages by the drink on licensed
20 premises from noon until 10:00 p.m. on Christmas day in a local
21 option district, if a petition requesting the governing body of
22 that district to call the election is signed by at least ten
23 percent of the registered voters of the district and is filed
24 with the clerk of the governing body of the district. Upon
25 verification by the clerk that the petition contains the

.156228.1

underscored material = new
[bracketed material] = delete

1 required number of signatures of registered voters, the
2 governing body shall adopt a resolution calling an election on
3 the question of allowing the sale, service or consumption of
4 alcoholic beverages by the drink on licensed premises from noon
5 until 10:00 p.m. on Christmas day. The election shall be held
6 within sixty days after the date the petition is verified, or
7 it may be held in conjunction with a regular election of the
8 governing body if that election occurs within sixty days of
9 such verification. The election shall be called, conducted,
10 counted and canvassed in substantially the same manner as
11 provided for general elections in the county under the Election
12 Code or for special municipal elections in a municipality under
13 the Municipal Election Code. If a majority of the voters
14 voting on the question [~~votes~~] vote against continuing the
15 sale, service or consumption of alcoholic beverages by the
16 drink on licensed premises from noon until 10:00 p.m. on
17 Christmas day, then such sales and consumption shall be
18 prohibited. If a majority of the voters voting on the question
19 [~~votes~~] vote to allow continued sale, service and consumption
20 of alcoholic beverages by the drink on licensed premises from
21 noon until 10:00 p.m. on Christmas day, then such sales and
22 consumption shall be allowed to continue. The question then
23 shall not be submitted again to the voters within two years of
24 the date of the last election on the question.

25 G. Notwithstanding the provisions of Subsection E

.156228.1

underscored material = new
[bracketed material] = delete

1 of this section, any Indian tribe or pueblo whose lands are
2 wholly situated within the state that has, by statute,
3 ordinance or resolution, elected to permit the sale, possession
4 or consumption of alcoholic beverages on lands within the
5 territorial boundaries of the tribe or pueblo may, by statute,
6 ordinance or resolution of the governing body of the Indian
7 tribe or pueblo, permit Sunday sales by the drink on the
8 licensed premises of licensees on lands within the territorial
9 boundaries of the tribe or pueblo; provided that a certified
10 copy of such enactment is filed with the office of the director
11 and of the secretary of state.

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

25 I. If a petition requesting the governing body of a

.156228.1

underscoring material = new
[bracketed material] = delete

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

.156228.1

underscored material = new
[bracketed material] = delete

1 submitted again to the voters within two years of the date of
2 the last election on the question.

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

6 Section 2. Section 60-7A-2 NMSA 1978 (being Laws 1981,
7 Chapter 39, Section 48, as amended) is amended to read:

8 "60-7A-2. SUNDAY SALES AT RACETRACKS AND RESORTS.--

9 A. Notwithstanding other provisions of the Liquor
10 Control Act, it is lawful for a dispenser:

11 (1) whose licensed premises are located on a
12 horse racetrack licensed by the state racing commission, to
13 sell, serve or permit the consumption of alcoholic beverages by
14 the drink on Sunday during the racing season between the hours
15 of [~~12:00 noon~~] 10:00 a.m. and 11:00 p.m.; or

16 (2) whose licensed premises are within a
17 resort, to sell, serve or permit the consumption of alcoholic
18 beverages by the drink on Sunday after midnight of the previous
19 day until 2:00 a.m. and then from [~~12:00 noon~~] 10:00 a.m. until
20 midnight.

21 B. As used in this section, "resort" means a
22 lodging establishment or complex, open to the public, offering
23 at least one hundred guest rooms or at least one hundred
24 recreational vehicle parking or camping spaces and where meals
25 are regularly furnished to the public. The establishment or

.156228.1

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

complex shall:

- (1) offer at least two of the following recreational activities:
 - (a) nine or eighteen holes of golf;
 - (b) tennis;
 - (c) water park facilities;
 - (d) horseback riding;
 - (e) snow skiing;
 - (f) water-skiing;
 - (g) fishing;
 - (h) hunting;
 - (i) boating;
 - (j) trap or skeet shooting; or
 - (k) swimming; or
- (2) be adjacent to or within a national park, national monument, national forest, state park or state monument."