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SENATE BILL 487

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO LIQUOR EXCISE TAXES; AUTHORIZING EACH COUNTY TO IMPOSE A LOCAL LIQUOR EXCISE TAX; LIMITING RATES OF LOCAL LIQUOR EXCISE TAXES.

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;

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1 B. "county" means:

2 (1) a class B county having a population of  
3 more than fifty-six thousand but less than seventy-five  
4 thousand, according to the most recent federal decennial census  
5 or any subsequent decennial census, and having a net taxable  
6 value for rate-setting purposes for the 1988 or any subsequent  
7 property tax year of more than five hundred million dollars  
8 (\$500,000,000) but less than seven hundred million dollars  
9 (\$700,000,000); or

10 (2) any county in the state other than a  
11 county identified in Paragraph (1) of this subsection;

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

16 D. "governing body" means the board of county  
17 commissioners of a county;

18 E. "microbrewer" means a person licensed as a small  
19 brewer pursuant to Section 60-6A-26.1 NMSA 1978 to produce beer  
20 in New Mexico and who produces less than five thousand barrels  
21 of beer in a calendar year;

22 [~~E.~~] F. "person" means any individual, estate,  
23 trust, receiver, cooperative association, club, corporation,  
24 company, firm, partnership, joint venture, syndicate or other  
25 association; "person" also means, to the extent permitted by

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1 law, any federal, state or other governmental unit or  
2 subdivision or agency, department or instrumentality thereof;

3 ~~[F.]~~ G. "price" means the total amount of money or  
4 the reasonable value of other consideration or both paid for  
5 alcoholic beverages, inclusive of the amount of any tax paid  
6 pursuant to the Liquor Excise Tax Act; ~~[and~~

7 ~~G.]~~ H. "retailer" means any person having a place  
8 of business within the county who sells, offers for sale or  
9 possesses for the purpose of selling alcoholic beverages within  
10 the county; and

11 I. "small winegrower" means a winegrower licensed  
12 pursuant to Section 60-6A-11 NMSA 1978 and who produces fewer  
13 than nine hundred fifty thousand liters of wine in a year."

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

16 "7-24-10. AUTHORIZATION TO IMPOSE LOCAL LIQUOR EXCISE  
17 TAX--RATE--USE OF PROCEEDS--ELECTION REQUIRED.--

18 A. The majority of the members elected to the  
19 governing body of a county identified in Paragraph (1) of  
20 Subsection B of Section 7-24-9 NMSA 1978 may enact an ordinance  
21 imposing on any retailer an excise tax on the price paid by the  
22 retailer for alcoholic beverages purchased by the retailer upon  
23 which the tax imposed by this section has not been paid. The  
24 tax may be imposed at a rate not to exceed five percent,  
25 provided that any lower rate shall be an even multiple of one  
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1 percent. [~~The tax imposed under this section may be referred~~  
2 ~~to as the "local liquor excise tax". Any tax imposed under~~  
3 ~~this section shall be for a period of not more than three years~~  
4 ~~from the effective date of the ordinance imposing the tax.]~~

5 B. The majority of the members elected to the  
6 governing body of a county identified in Paragraph (2) of  
7 Subsection B of Section 7-24-9 NMSA 1978 may enact an ordinance  
8 imposing on all wholesalers distributing alcoholic beverages to  
9 retailers in that county a "local liquor excise tax" at a rate  
10 not to exceed:

11 (1) on spirituous liquors, ninety-nine cents  
12 (\$ .99) per liter;

13 (2) on beer, except as provided in Paragraph  
14 (5) of this subsection, twenty-five cents (\$.25) per gallon;

15 (3) on wine, except as provided in Paragraphs  
16 (4) and (6) of this subsection, twenty-eight cents (\$.28) per  
17 liter;

18 (4) on fortified wine, ninety-three cents  
19 (\$ .93) per liter;

20 (5) on beer manufactured or produced by a  
21 microbrewer, which beer is sold in this state, provided that  
22 proof is furnished to the department that the beer was  
23 manufactured or produced by a microbrewer, five cents (\$.05)  
24 per gallon;

25 (6) on wine manufactured or produced by a

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1 small winegrower and sold in New Mexico, provided that proof is  
2 furnished to the department that the wine was manufactured or  
3 produced by a small winegrower, six cents (\$.06) per liter on  
4 the first eighty thousand liters sold and twelve cents (\$.12)  
5 per liter on all liters sold over eighty thousand liters but  
6 less than nine hundred fifty thousand liters; and

7 (7) on cider, twenty-five cents (\$.25) per  
8 gallon.

9 C. A tax imposed pursuant to this section shall be  
10 for a period of not more than three years from the effective  
11 date of the tax and may be referred to as the "local liquor  
12 excise tax".

13 D. Within the final year that a local liquor excise  
14 tax is in effect, the governing body may impose the tax for  
15 another three-year period, to begin in the month following the  
16 termination of the tax currently in effect, and submit the  
17 question of the tax to the voters of the county in the same  
18 manner as was required to approve the original tax.

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

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

13 [~~E.~~] F. The governing body enacting an ordinance  
14 imposing the local liquor excise tax shall submit the question  
15 of imposing the tax to the qualified voters of the county at a  
16 regular or special election.

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

21 [~~E.~~] H. If at an election called pursuant to this  
22 section a majority of the voters voting on the question [~~vote~~]  
23 votes in the affirmative on the question, then the ordinance  
24 imposing the local liquor excise tax shall be approved. If at  
25 such an election a majority of the voters voting on the

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1 question [~~fail~~] fails to approve the question, then the  
2 ordinance shall be disapproved and the question required to be  
3 submitted by [~~Subsection B of~~] this section shall not be  
4 submitted to the voters for a period of at least one year from  
5 the date of the election.

6 [~~F. Any~~] I. An ordinance enacted under the  
7 provisions of this section [~~which~~] that imposes a local liquor  
8 excise tax or changes the rate of tax imposed shall include an  
9 effective date [~~which~~] that is the first day of [~~any~~] a month  
10 [~~which~~] that begins no earlier than ninety days after the date  
11 of the election. A certified copy of [~~any~~] an ordinance  
12 imposing a local liquor excise tax shall be mailed or  
13 personally delivered to the department within five days after  
14 the ordinance is certified to have been approved by the voters.

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

24 Section 3. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2009.

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