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SENATE BILL 301

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

John C. Ryan

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; INCREASING THE HOURS OF  
CONSUMPTION OF ALCOHOLIC BEVERAGES ON SUNDAYS AT 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. 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~~] Tuesdays through

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1 Saturdays from after midnight of the previous day until 2:00  
2 a.m., then from 7:00 a.m. until midnight, except as provided in  
3 Subsections D and F of this 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, that nothing in this section shall prohibit  
8 the consumption at any time of alcoholic beverages in guest  
9 rooms 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~~  
14 ~~day~~] midnight, except as provided in Subsections D and F of  
15 this section.

16 C. A dispenser, restaurant licensee or club may,  
17 upon payment of an additional fee of one hundred dollars  
18 (\$100), obtain a permit to sell, serve or permit the  
19 consumption of alcoholic beverages by the drink on the licensed  
20 premises on Sundays [~~from 12:00 noon until midnight and in~~  
21 ~~those years when December 31 falls on a Sunday from 12:00 noon~~  
22 ~~until 2:00 a.m. of the following day, except as otherwise~~  
23 ~~provided in Subsection E of this section~~] subject to approval  
24 obtained pursuant to the process set forth in Subsection E of  
25 this section. Alcoholic beverages may be sold, served and

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1 consumed either from 10:00 a.m. until midnight as set forth in  
2 the licensee's Sunday sales permit, except as otherwise  
3 provided for a restaurant licensee in Section 60-6A-4 NMSA  
4 1978. In those years when December 31 falls on a Sunday,  
5 alcoholic beverages may be sold, served and consumed on the  
6 licensed premises from 10:00 a.m. until 2:00 a.m. of the  
7 following day, except as otherwise provided in Subsection E of  
8 this section. The Sunday sales permit shall expire on June 30  
9 of each year and may be renewed from year to year upon  
10 application for renewal and payment of the required fee. The  
11 permit fee shall not be prorated. Sales made pursuant to this  
12 subsection or Subsection G of this section shall be called  
13 "Sunday sales".

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

22 E. Sunday sales pursuant to the provisions of  
23 Subsection C of this section are permitted in a local option  
24 district that voted to permit them. If in that election a  
25 majority of the voters in a local option district voted "no" on

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1 the question "Shall Sunday sales of alcoholic beverages by the  
2 drink for consumption on the licensed premises of licensees be  
3 allowed in this local option district?", Sunday sales are  
4 unlawful in that local option district upon certification of  
5 the election returns unless the provisions of Subsection J of  
6 this section apply. The question shall not again be placed on  
7 the ballot in that local option district until:

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

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

17 F. On and after July 1, 2002, dispensers, canopy  
18 licensees that were replaced by dispenser's licensees pursuant  
19 to Section 60-6B-16 NMSA 1978, restaurant licensees, club  
20 licensees and governmental licensees or lessees of these  
21 licensees; provided that the licensees have current, valid food  
22 service establishment permits, may sell, serve or allow the  
23 consumption of alcoholic beverages by the drink on licensed  
24 premises from noon until 10:00 p.m. on Christmas day, except in  
25 a local option district in which, pursuant to petition and

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1 election under this subsection, a majority of the voters voting  
2 on the question votes against continuing such sales or  
3 consumption on Christmas day. An election shall be held on the  
4 question of whether to continue to allow the sale, service or  
5 consumption of alcoholic beverages by the drink on licensed  
6 premises from noon until 10:00 p.m. on Christmas day in a local  
7 option district, if a petition requesting the governing body of  
8 that district to call the election is signed by at least ten  
9 percent of the registered voters of the district and is filed  
10 with the clerk of the governing body of the district. Upon  
11 verification by the clerk that the petition contains the  
12 required number of signatures of registered voters, the  
13 governing body shall adopt a resolution calling an election on  
14 the question of allowing the sale, service or consumption of  
15 alcoholic beverages by the drink on licensed premises from noon  
16 until 10:00 p.m. on Christmas day. The election shall be held  
17 within sixty days after the date the petition is verified, or  
18 it may be held in conjunction with a regular election of the  
19 governing body if that election occurs within sixty days of  
20 such verification. The election shall be called, conducted,  
21 counted and canvassed in substantially the same manner as  
22 provided for general elections in the county under the Election  
23 Code or for special municipal elections in a municipality under  
24 the Municipal Election Code. If a majority of the voters  
25 voting on the question votes against continuing the sale,

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1 service or consumption of alcoholic beverages by the drink on  
2 licensed premises from noon until 10:00 p.m. on Christmas day,  
3 then such sales and consumption shall be prohibited. If a  
4 majority of the voters voting on the question votes to allow  
5 continued sale, service and consumption of alcoholic beverages  
6 by the drink on licensed premises from noon until 10:00 p.m. on  
7 Christmas day, then such sales and consumption shall be allowed  
8 to continue. The question then shall not be submitted again to  
9 the voters within two years of the date of the last election on  
10 the question.

11 G. Notwithstanding the provisions of Subsection E  
12 of this section, any Indian nation, tribe or pueblo whose lands  
13 are wholly situated within the state that has, by statute,  
14 ordinance or resolution, elected to permit the sale, possession  
15 or consumption of alcoholic beverages on lands within the  
16 territorial boundaries of the Indian nation, tribe or pueblo  
17 may, by statute, ordinance or resolution of the governing body  
18 of the Indian nation tribe or pueblo, permit Sunday sales by  
19 the drink on the licensed premises of licensees on lands within  
20 the territorial boundaries of the Indian nation, tribe or  
21 pueblo; provided that a certified copy of such enactment is  
22 filed with the office of the director and [ef] with the  
23 secretary of state.

24 H. Subject to the provisions of Subsection I of  
25 this section, a dispenser or retailer, upon payment of an

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

11 I. If a petition requesting the governing body of a  
12 local option district to call an election on the question of  
13 continuing to allow sales of alcoholic beverages in unbroken  
14 packages for consumption off the licensed premises on Sundays  
15 is filed with the clerk of the governing body and that petition  
16 is signed by at least ten percent of the number of registered  
17 voters of the local option district and the clerk of the  
18 governing body verifies the petition signatures, the governing  
19 body shall adopt a resolution calling an election on the  
20 question. The election shall be held within sixty days of the  
21 date that the petition is verified, or it may be held in  
22 conjunction with a regular election of the governing body, if  
23 the regular election occurs within sixty days of the petition  
24 verification. The election shall be called, conducted, counted  
25 and canvassed substantially in the manner provided by law for

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1 general elections within a county or for special municipal  
2 elections within a municipality. If a majority of the voters  
3 of the local option district voting in the election votes to  
4 allow the sale of alcoholic beverages in unbroken packages for  
5 consumption off the licensed premises, then those sales shall  
6 continue to be allowed. If a majority of the voters of the  
7 local option district voting in the election votes not to allow  
8 the Sunday package sales, then those Sunday package sales shall  
9 be prohibited commencing the first Sunday after the results of  
10 the election are certified. Following the election, the  
11 question of allowing the Sunday package sales shall not be  
12 submitted again to the voters within two years of the date of  
13 the last election on the question.

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

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