

1 SENATE BILL 85

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 AN ACT

11 RELATING TO TAXATION; AUTHORIZING ALL COUNTIES TO IMPOSE A
12 LOCAL LIQUOR EXCISE TAX; EXTENDING THE AMOUNT OF TIME AN
13 IMPOSITION OF THE TAX MAY BE IN EFFECT; ALLOWING SUBSEQUENT
14 IMPOSITIONS OF THE TAX; CHANGING HOW THE PROCEEDS FROM THE TAX
15 MAY BE USED; PROVIDING FOR THE CONTINUATION OF ORDINANCES
16 IMPOSING THE TAX PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

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

19 SECTION 1. A new section of the Tax Administration Act is
20 enacted to read:

21 "[NEW MATERIAL] TRANSFER OF REVENUE FROM LOCAL LIQUOR
22 EXCISE TAXES.--A transfer pursuant to Section 7-1-6.1 NMSA 1978
23 shall be made to each county for which the department is
24 collecting a local liquor excise tax imposed by that county in
25 an amount equal to the net receipts attributable to the local

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1 liquor excise tax imposed by that county."

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

4 "7-24-9. DEFINITIONS.--As used in the Local Liquor Excise
5 Tax Act:

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

12 [~~B. "county" means a class B county having a~~
13 ~~population of more than fifty-six thousand but less than~~
14 ~~seventy-five thousand, according to the most recent federal~~
15 ~~decennial census or any subsequent decennial census, and having~~
16 ~~a net taxable value for rate-setting purposes for the 1988 or~~
17 ~~any subsequent property tax year of more than five hundred~~
18 ~~million dollars (\$500,000,000) but less than seven hundred~~
19 ~~million dollars (\$700,000,000);~~

20 ~~G.]~~ B. "department" means the taxation and revenue
21 department, the secretary of taxation and revenue or any
22 employee of the department exercising authority lawfully
23 delegated to that employee by the secretary;

24 [~~D.]~~ C. "governing body" means the board of county
25 commissioners of a county;

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1 ~~[E-]~~ D. "person" means any individual, estate,
2 trust, receiver, cooperative association, club, corporation,
3 company, firm, partnership, joint venture, syndicate or other
4 association; "person" also means, to the extent permitted by
5 law, any federal, state or other governmental unit or
6 subdivision or agency, department or instrumentality thereof;

7 ~~[F-]~~ E. "price" means the total amount of money or
8 the reasonable value of other consideration or both paid for
9 alcoholic beverages, inclusive of the amount of any tax paid
10 pursuant to the Liquor Excise Tax Act; and

11 ~~[G-]~~ F. "retailer" means any person having a place
12 of business within the county who sells, offers for sale or
13 possesses for the purpose of selling alcoholic beverages within
14 the county."

15 **SECTION 3.** Section 7-24-10 NMSA 1978 (being Laws 1989,
16 Chapter 326, Section 3, as amended) is amended to read:

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

19 A. The majority of the members elected to the
20 governing body may enact an ordinance imposing on any retailer
21 an excise tax on the price paid by the retailer for alcoholic
22 beverages purchased by the retailer upon which the tax imposed
23 by this section has not been paid. The tax may be imposed at a
24 rate not to exceed six percent, provided that any lower rate
25 shall be an even multiple of one percent. The tax imposed

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1 ~~[under]~~ pursuant to this section may be referred to as the
2 "local liquor excise tax". ~~[Any]~~

3 B. A local liquor excise tax imposed ~~[under]~~
4 pursuant to this section shall be for a period of not more than
5 ~~[three]~~ four years from the effective date of the ordinance
6 imposing the tax. Subsequent ordinances enacted to impose the
7 tax for succeeding periods shall be made pursuant to this
8 section.

9 ~~[B-]~~ C. The governing body at the time of enacting
10 an ordinance imposing ~~[the tax authorized in Subsection A of~~
11 ~~this section]~~ a local liquor excise tax shall dedicate the
12 revenue to fund ~~[educational programs and]~~ direct program
13 services for the prevention and treatment, including social
14 detoxification, of alcoholism and drug abuse within the county
15 and for no other purpose. After approval of the imposition of
16 a local liquor excise tax by the voters but before the
17 effective date of the ordinance, the governing body shall hold
18 a public meeting for the purpose of inviting comment on and
19 suggestions for the most appropriate programs on which to
20 expend the revenue produced by the tax. The governing body
21 shall invite representatives from the appropriate Indian
22 tribes, nations and pueblos located in that county to the
23 meeting. If the governing body awards ~~[any]~~ a contract using
24 funds derived from the local liquor excise tax, it shall do so
25 ~~[only through a selection process requiring submission of~~

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1 ~~sealed bids or proposals after public notice of the opportunity~~
2 ~~to submit the sealed bids or proposals.~~

3 ~~C. The governing body enacting an ordinance~~
4 ~~imposing the local liquor excise tax shall submit the question~~
5 ~~of imposing the tax to the qualified voters of the county at a~~
6 ~~regular or special election.~~

7 ~~D. Only those voters who are registered within the~~
8 ~~county shall be permitted to vote. The election shall be~~
9 ~~called, conducted and canvassed in substantially the same~~
10 ~~manner as provided by law for general elections.~~

11 ~~E. If at an election called pursuant to this~~
12 ~~section the majority of the voters voting on the question vote~~
13 ~~in the affirmative on the question, then the ordinance imposing~~
14 ~~the local liquor excise tax shall be approved. If at such an~~
15 ~~election the majority of the voters voting on the question fail~~
16 ~~to approve the question, then the ordinance shall be~~
17 ~~disapproved and the question required to be submitted by~~
18 ~~Subsection B of this section shall not be submitted to the~~
19 ~~voters for a period of at least one year from the date of the~~
20 ~~election.~~

21 ~~F. Any ordinance enacted under the provisions of~~
22 ~~this section that imposes a local liquor excise tax or changes~~
23 ~~the rate of tax imposed shall include an effective date that is~~
24 ~~the first day of any month that begins no earlier than ninety~~
25 ~~days after the date of the election. A certified copy of any~~

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1 ~~ordinance imposing a local liquor excise tax shall be mailed or~~
2 ~~personally delivered to the department within five days after~~
3 ~~the ordinance is certified to have been approved by the voters.~~

4 ~~G. Any ordinance repealing the imposition of a tax~~
5 ~~under the provisions of this section shall contain an effective~~
6 ~~date that is the first day of any month beginning no earlier~~
7 ~~than sixty days from the date the ordinance repealing the tax~~
8 ~~is adopted by the governing body. A certified copy of any~~
9 ~~ordinance repealing a local liquor excise tax shall be mailed~~
10 ~~or personally delivered to the department within five days of~~
11 ~~the date the ordinance is adopted] pursuant to the Procurement~~
12 Code.

13 D. An ordinance imposing a local liquor excise tax
14 shall not go into effect until after an election is held and a
15 majority of the voters of the county voting in the election
16 votes in favor of imposing the tax. The governing body shall
17 adopt a resolution calling for an election within sixty days of
18 the date the ordinance is adopted on the question of imposing
19 the tax. The question shall be submitted to the voters of the
20 county as a separate question at a general election or at a
21 special election called for that purpose by the governing
22 body. A special election shall be called, conducted and
23 canvassed in substantially the same manner as provided by law
24 for general elections.

25 E. If a majority of the voters voting on the

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1 question approves the ordinance imposing the local liquor
2 excise tax, the ordinance shall become effective on July 1 or
3 January 1, whichever date occurs first after the expiration of
4 at least three months from the date the adopted ordinance is
5 mailed or delivered to the department. The ordinance shall
6 include that effective date. If the question of imposing the
7 local liquor excise tax fails, the governing body shall not
8 again propose the imposition of the tax for a period of one
9 year from the date of the election."

10 SECTION 4. TEMPORARY PROVISION--ORDINANCE ENACTED PRIOR
11 TO EFFECTIVE DATE OF ACT.--If, prior to the effective date of
12 this act, a county has enacted an ordinance imposing a local
13 liquor excise tax, the ordinance and any amount dedicated
14 pursuant to the ordinance shall continue in effect until the
15 ordinance expires.

16 SECTION 5. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2020.