

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES BY THE DRINK ON CHRISTMAS DAY; PERMITTING SUNDAY SALES, SERVICE AND CONSUMPTION OF ALCOHOL AT RESORTS; AMENDING SECTIONS OF THE LIQUOR CONTROL ACT.

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

(3) on Sundays only after midnight of the previous day until 2:00 a. m. , except as provided in

Subsections C and E of this section and Section 60-7A-2 NMSA

1978; provided, however, nothing in this section shall prohibit the consumption at any time of alcoholic beverages in guest rooms of hotels.

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

C. A dispenser, restaurant licensee or club may, upon payment of an additional fee of one hundred dollars (\$100), obtain a permit to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises on Sundays from 12:00 noon until midnight and in those years when December 31 falls on a Sunday from 12:00 noon until 2:00 a.m. of the following day, except as otherwise provided in Subsection E of this section. The permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to this subsection or Subsection G of this section shall be called "Sunday sales".

D. Retailers, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and

governmental licensees or their lessees shall not sell, serve, deliver or allow the consumption of alcoholic beverages on the licensed premises from 2:00 a. m. on Christmas day until 7:00 a. m. on the day after Christmas, except as permitted pursuant to Subsection F of this section.

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

- (1) at least one year has passed; and
- (2) a petition is filed with the local governing body bearing the signatures of registered qualified electors of the local option district equal in number to ten percent of the number of votes cast and counted in the local option district for governor in the last preceding general election in which a governor was

elected. The signatures on the petition shall be verified by the clerk of the county in which the local option district is situated.

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

governing body shall adopt a resolution calling an election on the question of allowing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p. m. on Christmas day. The election shall be held within sixty days after the date the petition is verified, or it may be held in conjunction with a regular election of the governing body if that election occurs within sixty days of such verification. The election shall be called, conducted, counted and canvassed in substantially the same manner as provided for general elections in the county under the Election Code or for special municipal elections in a municipality under the Municipal Election Code. If a majority of the voters voting on the question votes against continuing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p. m. on Christmas day, then such sales and consumption shall be prohibited. If a majority of the voters voting on the question votes to allow continued sale, service and consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p. m. on Christmas day, then such sales and consumption shall be allowed to continue. The question then shall not be submitted again to the voters within two years of the date of the last election on the question.

G. Notwithstanding the provisions of Subsection E

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

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

I. If a petition requesting the governing body of a local option district to call an election on the question of continuing to allow sales of alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays is filed with the clerk of the governing body and that petition is signed by at least ten percent of the number of registered voters of the local option district and the clerk of the governing body verifies the petition signatures, the governing body shall adopt a resolution calling an election on the question. The election shall be held within sixty days of the date the petition is verified, or it may be held in conjunction with a regular election of the governing body, if the regular election occurs within sixty days of the petition verification. The election shall be called, conducted, counted and canvassed substantially in the manner provided by law for general elections within a county or special municipal elections within a municipality. If a majority of the voters of the local option district voting in the election votes to allow the sale of alcoholic beverages in unbroken packages for consumption off the licensed premises, then those sales shall continue to be allowed. If a majority of the voters of the local option district voting in the election votes not to allow the Sunday package sales, then those Sunday package sales shall be prohibited commencing the first Sunday after the results

of the election are certified. Following the election, the question of allowing the Sunday package sales shall not be submitted again to the voters within two years of the date of the last election on the question.

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

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

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

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

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

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

B. As used in this section, "resort" means a lodging establishment or complex, open to the public, offering at least one hundred guest rooms or at least one



hundred recreational vehicle parking or camping spaces and where meals are regularly furnished to the public. The establishment or 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. "

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Section 3. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2002. \_\_\_\_\_