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SENATE BILL 152

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO SALES OF ALCOHOLIC BEVERAGES; REMOVING THE
PROHIBITION ON CHRISTMAS DAY SALES OF ALCOHOLIC BEVERAGES;
AMENDING A SECTION 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

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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
6 Subsections C and [~~E~~] D of this section; provided, however,
7 nothing in this section shall prohibit the consumption at any
8 time of alcoholic beverages in guest rooms of hotels.

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

15 C. Subject to the provisions of Subsections [~~E and~~
16 ~~G~~] D and E of this section, a dispenser, restaurant licensee
17 or club may, upon payment of an additional fee of one hundred
18 dollars (\$100), obtain a permit to sell, serve or permit the
19 consumption of alcoholic beverages by the drink on the
20 licensed premises on Sundays from 12:00 noon until midnight
21 and in those years when December 31 falls on a Sunday from
22 12:00 noon until 2:00 a.m. of the following day, except as
23 otherwise provided in Subsection [~~E~~] D of this section. The
24 permit shall expire on June 30 of each year and may be renewed
25 from year to year upon application for renewal and payment of

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1 the required fee. The permit fee shall not be prorated.
2 Sales made pursuant to this subsection or Subsection [G] E of
3 this section shall be called "Sunday sales".

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

12 ~~E.]~~ D. At the 1984 general election, the secretary
13 of state shall order placed on the ballot in each local option
14 district the question "Shall Sunday sales of alcoholic
15 beverages by the drink for consumption on the licensed
16 premises of licensees be allowed in this local option
17 district?". If the secretary of state determines a need, he
18 may authorize the use of paper ballots for the purpose of the
19 election provided for pursuant to this subsection. Until such
20 election, Sunday sales shall be permitted on the same basis in
21 any local option district as provided under any former act,
22 and the election held at the first general election following
23 the effective date of the Liquor Control Act shall have no
24 effect on whether Sunday sales are permitted in any local
25 option district. If the question is disapproved by a majority

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1 of those voting upon the question in the local option
2 district, Sunday sales shall be unlawful in that local option
3 district upon certification of the election returns, and the
4 question shall not again be placed on the ballot in that local
5 option district until:

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

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

15 ~~[F. On and after July 1, 1989, dispensers, canopy~~
16 ~~licenses that were replaced by dispenser's licenses pursuant~~
17 ~~to Section 60-6B-16 NMSA 1978, restaurant licenses, club~~
18 ~~licenses and governmental licenses or lessees of these~~
19 ~~licenses may sell, serve or allow the consumption of beer and~~
20 ~~wine with meals on licensed premises from noon until 10:00~~
21 ~~p.m. on Christmas day, except in a local option district in~~
22 ~~which, pursuant to petition and election under this~~
23 ~~subsection, a majority of the voters voting on the question~~
24 ~~votes against continuing such sales or consumption on~~
25 ~~Christmas day. An election shall be held on the question of~~

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

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1 ~~voters voting on the question votes to allow continued sale,~~
2 ~~service and consumption of beer and wine with meals on~~
3 ~~licensed premises from noon until 10:00 p.m. on Christmas day,~~
4 ~~then such sales and consumption shall be allowed to continue.~~
5 ~~The question then shall not be submitted again to the voters~~
6 ~~within two years of the date of the last election on the~~
7 ~~question.~~

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

20 ~~H.]~~ F. Subject to the provisions of Subsection
21 [~~F]~~ G of this section, a dispenser or retailer, upon payment
22 of an additional fee of one hundred dollars (\$100), may obtain
23 a permit to sell alcoholic beverages in unbroken packages for
24 consumption off the licensed premises on Sundays from 12:00
25 noon until midnight, and in those years when December 31 falls

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1 on a Sunday, from 12:00 noon on December 31 until 2:00 a. m. of
2 the following day. The permit shall expire on June 30 of each
3 year and may be renewed from year to year upon application for
4 renewal and payment of the required fee. The permit fee shall
5 not be prorated. Sales made pursuant to the provisions of
6 this subsection shall be called "Sunday package sales".

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

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

11 Section 2. EFFECTIVE DATE. -- The effective date of the
12 provisions of this act is July 1, 2002.

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