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HOUSE BILL 721

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING THAT SUNDAY SALES FOR CONSUMPTION ON LICENSED PREMISES MAY BEGIN AT 11:00 A.M.; INCREASING THE SUNDAY SALES PERMIT FEE.

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 Subsections
6 C and E of this section and Section 60-7A-2 NMSA 1978;
7 provided, however, nothing in this section shall prohibit the
8 consumption at any time of alcoholic beverages in guest rooms
9 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 day,
14 except as provided in Subsections D and F of this section.

15 C. A dispenser, restaurant licensee or club may,
16 upon payment of an additional fee of [~~one hundred dollars~~
17 ~~(\$100)~~] one hundred fifty dollars (\$150), obtain a permit to
18 sell, serve or permit the consumption of alcoholic beverages by
19 the drink on the licensed premises on Sundays from [~~12:00~~
20 11:00 a.m. noon until midnight and in those years when December
21 31 falls on a Sunday from [~~12:00 noon~~] 11:00 a.m. until 2:00
22 a.m. of the following day, except as otherwise provided in
23 Subsection E of this section. The permit shall expire on June
24 30 of each year and may be renewed from year to year upon
25 application for renewal and payment of the required fee. The

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1 permit fee shall not be prorated. Sales made pursuant to this
2 subsection or Subsection G of this section shall be called
3 "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. Sunday sales pursuant to the provisions of
13 Subsection C of this section are permitted in a local option
14 district that voted to permit them. If in that election a
15 majority of the voters in a local option district voted "no" on
16 the question "Shall Sunday sales of alcoholic beverages by the
17 drink for consumption on the licensed premises of licensees be
18 allowed in this local option district?", Sunday sales are
19 unlawful in that local option district upon certification of
20 the election returns unless the provisions of Subsection J of
21 this section apply. The question shall not again be placed on
22 the ballot in that local option district until:

- 23 (1) at least one year has passed; and
24 (2) a petition is filed with the local
25 governing body bearing the signatures of registered qualified

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1 electors of the local option district equal in number to ten
2 percent of the number of votes cast and counted in the local
3 option district for governor in the last preceding general
4 election in which a governor was elected. The signatures on
5 the petition shall be verified by the clerk of the county in
6 which the local option district is situated.

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

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1 the district. Upon verification by the clerk that the petition
2 contains the required number of signatures of registered
3 voters, the governing body shall adopt a resolution calling an
4 election on the question of allowing 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. The
7 election shall be held within sixty days after the date the
8 petition is verified, or it may be held in conjunction with a
9 regular election of the governing body if that election occurs
10 within sixty days of such verification. The election shall be
11 called, conducted, counted and canvassed in substantially the
12 same manner as provided for general elections in the county
13 under the Election Code or for special municipal elections in a
14 municipality under the Municipal Election Code. If [a] the
15 majority of the voters voting on the question [~~votes~~] vote
16 against continuing the sale, service or consumption of
17 alcoholic beverages by the drink on licensed premises from noon
18 until 10:00 p.m. on Christmas day, then such sales and
19 consumption shall be prohibited. If [a] the majority of the
20 voters voting on the question [~~votes~~] vote to allow continued
21 sale, service and consumption of alcoholic beverages by the
22 drink on licensed premises from noon until 10:00 p.m. on
23 Christmas day, then such sales and consumption shall be allowed
24 to continue. The question then shall not be submitted again to
25 the voters within two years of the date of the last election on

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1 the question.

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

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

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1 I. If a petition requesting the governing body of a
2 local option district to call an election on the question of
3 continuing to allow sales of alcoholic beverages in unbroken
4 packages for consumption off the licensed premises on Sundays
5 is filed with the clerk of the governing body and that petition
6 is signed by at least ten percent of the number of registered
7 voters of the local option district and the clerk of the
8 governing body verifies the petition signatures, the governing
9 body shall adopt a resolution calling an election on the
10 question. The election shall be held within sixty days of the
11 date the petition is verified, or it may be held in conjunction
12 with a regular election of the governing body, if the regular
13 election occurs within sixty days of the petition verification.
14 The election shall be called, conducted, counted and canvassed
15 substantially in the manner provided by law for general
16 elections within a county or special municipal elections within
17 a municipality. If [a] the majority of the voters of the local
18 option district voting in the election [~~votes~~] vote to allow
19 the sale of alcoholic beverages in unbroken packages for
20 consumption off the licensed premises, then those sales shall
21 continue to be allowed. If [a] the majority of the voters of
22 the local option district voting in the election [~~votes~~] vote
23 not to allow the Sunday package sales, then those Sunday
24 package sales shall be prohibited commencing the first Sunday
25 after the results of the election are certified. Following the

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1 election, the question of allowing the Sunday package sales
2 shall not be submitted again to the voters within two years of
3 the date of the last election on the question.

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

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