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HOUSE BILL 575

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Mary Helen Garcia

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING AN EARLIER STARTING  
TIME FOR SUNDAY SALES OF ALCOHOLIC BEVERAGES IN LICENSED  
PREMISES IN CLASS A COUNTIES NEAR THE TEXAS BORDER.

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 and K 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), obtain a permit to sell, serve or permit the  
18 consumption of alcoholic beverages by the drink on the licensed  
19 premises on Sundays from 12:00 noon until midnight and in those  
20 years when December 31 falls on a Sunday from 12:00 noon until  
21 2:00 a.m. of the following day, except as otherwise provided in  
22 [~~Subsection~~] Subsections E and K of this section. The permit  
23 shall expire on June 30 of each year and may be renewed from  
24 year to year upon application for renewal and payment of the  
25 required fee. The permit fee shall not be prorated. Sales

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1 made pursuant to this subsection or [~~Subsection~~] Subsections G  
2 and K of this section shall be called "Sunday sales".

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

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

- 22 (1) at least one year has passed; and  
23 (2) a petition is filed with the local  
24 governing body bearing the signatures of registered qualified  
25 electors of the local option district equal in number to ten

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

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

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

25 G. Notwithstanding the provisions of Subsection E

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

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

24 I. If a petition requesting the governing body of a  
25 local option district to call an election on the question of

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

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1 the last election on the question.

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

5 K. A dispenser who is permitted Sunday sales at  
6 licensed premises that are located in a class A county within  
7 ten miles of the border with the state of Texas may sell, serve  
8 or permit the consumption of alcoholic beverages by the drink  
9 on Sundays beginning at 9:00 a.m. Other than the starting time  
10 for Sunday sales, the dispenser is subject to the provisions of  
11 this section."