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SENATE BILL 108

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

GLORIA HOWES

FOR THE DWI OVERSIGHT TASK FORCE

AN ACT

RELATING TO ALCOHOL; AUTHORIZING LOCAL OPTION ELECTIONS  
REGARDING THE SALE OF ALCOHOLIC BEVERAGES FROM DRIVE-UP WINDOWS;  
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--DRIVE-  
UP WINDOW 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, E and H 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 F of this section; provided, however, nothing in this  
7 section shall prohibit the consumption at any time of alcoholic  
8 beverages in guest rooms of hotels.

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

14 C. Subject to the provisions of Subsections F and I  
15 of this section, a dispenser, restaurant licensee or club may,  
16 upon payment of an additional fee of one hundred dollars (\$100),  
17 obtain a permit to sell, serve or permit the consumption of  
18 alcoholic beverages by the drink on the licensed premises on  
19 Sundays from [~~12:00~~] noon until midnight and in those years when  
20 December 31 falls on a Sunday from [~~12:00~~] noon until 2:00 a.m.  
21 of the following day, except as otherwise provided in Subsection  
22 F of this section. The permit shall expire on June 30 of each  
23 year and may be renewed from year to year upon application for  
24 renewal and payment of the required fee. The permit fee shall  
25 not be prorated. Sales made pursuant to this subsection or

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1 Subsection I of this section shall be called "Sunday sales".

2 D. Retailers, dispensers, canopy licensees,  
3 restaurant licensees, club licensees and governmental licensees  
4 or its lessees shall not sell, serve, deliver or allow the  
5 consumption of alcoholic beverages on the licensed premises  
6 during voting hours on the days of the primary election, general  
7 election, elections for officers of a municipality or any other  
8 election as prescribed by the rules and regulations of the  
9 director.

10 E. Retailers, dispensers, canopy licensees that were  
11 replaced by dispenser's licensees pursuant to Section 60-6B-16  
12 NMSA 1978, restaurant licensees, club licensees and governmental  
13 licensees or its lessees shall not sell, serve, deliver or allow  
14 the consumption of alcoholic beverages on the licensed premises  
15 from 2:00 a.m. on Christmas day until 7:00 a.m. on the day after  
16 Christmas, except as permitted pursuant to Subsection H of this  
17 section.

18 F. At the 1984 general election, the secretary of  
19 state shall order placed on the ballot in each local option  
20 district the question "Shall Sunday sales of alcoholic beverages  
21 by the drink for consumption on the licensed premises of  
22 licensees be allowed in this local option district?". If the  
23 secretary of state determines a need, he may authorize the use  
24 of paper ballots for the purpose of the election provided for  
25 pursuant to this subsection. Until such election, Sunday sales

. 108558. 2

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1 shall be permitted on the same basis in any local option  
2 district as provided under any former act, and the election held  
3 at the first general election following the effective date of  
4 the Liquor Control Act shall have no effect on whether Sunday  
5 sales are permitted in any local option district. If the  
6 question is disapproved by a majority of those voting upon the  
7 question in the local option district, Sunday sales shall be  
8 unlawful in that local option district upon certification of the  
9 election returns, and the question shall not again be placed on  
10 the ballot in that local option district until:

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

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

20 G. The local governing body of a local option  
21 district [~~in an eligible county shall~~] may:

22 (1) adopt a resolution within [~~sixty~~] ninety  
23 days of [~~April 7, 1989~~] July 1, 1996 calling for an election to  
24 place on the ballot the question "Shall a retailer or dispenser  
25 be allowed to sell or deliver alcoholic beverages at any time

. 108558. 2

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1 from a drive-up window?";

2 (2) arrange for the election to be held within  
3 sixty days after the date the resolution is adopted; and

4 (3) ensure that the election is called,  
5 conducted, counted and canvassed in the manner provided by law  
6 for elections within the county.

7 ~~[As used in this subsection, "eligible county" means any~~  
8 ~~county that, according to motor vehicle statistics reported to~~  
9 ~~the state highway and transportation department during the years~~  
10 ~~1985 and 1986, convicted more than twenty-five persons for each~~  
11 ~~one thousand licensed drivers of driving while intoxicated~~  
12 ~~offenses. ]~~

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

. 108558. 2

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

. 108558. 2

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1 Christmas day, then such sales and consumption shall be allowed  
2 to continue. The question then shall not be submitted again to  
3 the voters within two years of the date of the last election on  
4 the question.

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

17 J. Subject to the provisions of Subsection K of this  
18 section, a dispenser or retailer, upon payment of an additional  
19 fee of one hundred dollars (\$100), may obtain a permit to sell  
20 alcoholic beverages in unbroken packages for consumption off the  
21 licensed premises on Sundays from [~~12:00~~] noon until midnight  
22 and, in those years when December 31 falls on a Sunday, from  
23 [~~12:00~~] noon on December 31 until 2:00 a.m. of the following  
24 day. The permit shall expire on June 30 of each year and may be  
25 renewed from year to year upon application for renewal and

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1 payment of the required fee. The permit fee shall not be  
2 prorated. Sales made pursuant to the provisions of this  
3 subsection shall be called "Sunday package sales".

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

. 108558. 2



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1 package sales, then those Sunday package sales shall be  
2 prohibited commencing the first Sunday after the results of the  
3 election are certified. Following the election, the question of  
4 allowing the Sunday package sales shall not be submitted again  
5 to the voters within two years of the date of the last election  
6 on the question. "

7 Section 2. EFFECTIVE DATE. --The effective date of the  
8 provisions of this act is July 1, 1996.

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1 FORTY- SECOND LEGI SLATURE  
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5 JANUARY

6 23, 1996  
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8 Mr. Presi dent:

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10 Your COMMI TTEE' S COMMI TTEE, to whom has been referred  
11

12 SENATE BILL 108  
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14 has had it under consideration and finds same to be GERMANE,  
15 PURSUANT TO CONSTITUTIONAL PROVISIONS, and thence referred to the  
16 PUBLIC AFFAI RS COMMI TTEE.  
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18 Respectfully submit ted,  
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25 SENATOR MANNY M. ARAGON,

Chai rman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

S0108CC1

1 FORTY- SECOND LEGI SLATURE  
2 SECOND SESSI ON, 1996  
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5 February 2, 1996  
6

7 Mr. President:  
8

9 Your PUBLIC AFFAIRS COMMI TTEE, to whom has been referred  
10

11 SENATE BILL 108  
12

13 has had it under consideration and reports same with recommendation that  
14 it DO PASS.  
15

16 Respectfully submit ted,  
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19 Shannon Robi nson, Chair man  
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25 Adopted \_\_\_\_\_

(Chi ef Clerk)

Not Adopted \_\_\_\_\_

(Chi ef Clerk)

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The roll call vote was 4 For 2 Against

Yes: 4

No: Garcia, Smith

Excused: Naranjo, E. Jennings

Absent: None

S0108PA1

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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 5, 1996

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 108

Amendment sponsored by Senator Shannon ~~Robinson~~ Paster

1. On page 4, line 25, strike "at any time".

2. On page 5, line 12, after the closing bracket insert "The provisions of this 1996 act shall not be interpreted to invalidate the results of any previous elections called, conducted, counted and canvassed pursuant to the provisions of this subsection."

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FORTY-FIRST LEGISLATURE  
SECOND SESSION

SB 108

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\_\_\_\_\_  
Shannon Robinson

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 5, 1996

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 108

Amendment sponsored by Senator Gloria Howes

1. On page 5, lines 2 and 3, strike "within sixty days after the date the resolution is adopted" and insert in lieu thereof "in conjunction with the next regular election of the local governing body or the next statewide general election following adoption of the resolution".

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Gloria Howes



FORTY-FIRST LEGISLATURE  
SECOND SESSION

Sf1/SB 108

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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FORTY-SECOND LEGISLATURE

SECOND SESSION

February 6, 1996

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 108

Amendment sponsored by Senator Dianna J. Duran

1. On page 6, line 16, strike "general".
2. On page 8, line 18, strike "general".

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Dianna J. Duran

FORTY-FIRST LEGISLATURE  
SECOND SESSION

SB 108

Page 19

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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FORTY-FIRST LEGISLATURE  
SECOND SESSION

SB 108

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 19, 1996

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 108, AS AMENDED

AMENDMENT sponsored by SENATOR DUNCAN SCOTT

1. On page 4, lines 22 and 23, delete: "within ninety days of July 1, 1996".
2. On page 5, line 3, delete the word "and".
3. On page 5, line 6, delete the period and insert: "; and".
4. On page 5, line 7, add a new paragraph to read:

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FORTY-FIRST LEGISLATURE  
SECOND SESSION

SB 108

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"(4) following the election, the question of whether or not to prohibit the sale or delivery of alcoholic beverages from a drive-up window shall not be submitted again to the voters within two years of the date of the last election on the question."

\_\_\_\_\_

Senator Duncan Scott

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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FORTY-FIRST LEGISLATURE  
SECOND SESSION

SB 108

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FORTY-FIRST LEGISLATURE  
SECOND SESSION

SB 108

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 19, 1996

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 108, AS AMENDED

AMENDMENT sponsored by SENATOR DON KIDD

1. On page 1, line 11, after the semicolon, add: "AUTHORIZING  
IMPOUNDMENT OF CARS FOR MINORS;"

2. On page 5, line 7, add a new section to read:

"(4) adopt a resolution calling for an election

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FORTY-FIRST LEGISLATURE  
SECOND SESSION

SB 108

Page 24

to place on the ballot the question: "shall law enforcement have the authority to impound a car for up to thirty days when a minor is found in the car to be in possession of alcoholic beverages?"".

\_\_\_\_\_

Senator Don Kidd

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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FORTY-FIRST LEGISLATURE  
SECOND SESSION

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S0108FS5

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SENATE FLOOR SUBSTITUTE FOR  
SENATE BILL 108

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
1996

AN ACT

RELATING TO ALCOHOL; PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES  
FROM A DRIVE-UP WINDOW; AMENDING SECTIONS OF THE LIQUOR CONTROL  
ACT.

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

Section 1. Section 60-6C-1 NMSA 1978 (being Laws 1981,  
Chapter 39, Section 97, as amended) is amended to read:

"60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR  
ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

A. The director may suspend or revoke the license or  
permit or fine the licensee in an amount not more than ten  
thousand dollars (\$10,000), or both, when he finds that any  
licensee has:

(1) violated any provision of the Liquor Control

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Act or any regulation or order promulgated pursuant to that act;

(2) been convicted of a felony pursuant to the provisions of the Criminal Code, the Liquor Control Act or federal law; or

(3) permitted his licensed premises to remain a public nuisance in the neighborhood where it is located after written notice from the director that investigation by the department has revealed that the establishment is a public nuisance in the neighborhood.

B. The director shall suspend or revoke the license or permit and may fine the licensee in an amount not to exceed ten thousand dollars (\$10,000), or both, when he finds that any licensee or:

(1) his employee or agent knowingly has sold, served or given any alcoholic beverage to a minor in violation of Section 60-7B-1 NMSA 1978 or to an intoxicated person in violation of Section 60-7A-16 NMSA 1978, on two separate occasions within any twelve-month period; or

(2) his agent has made any material false statement or concealed any material facts in his application for the license or permit granted him pursuant to the provisions of the Liquor Control Act.

~~[C. In addition to other penalties provided in this section, any retailer or dispenser who violates the provisions of Section 60-7A-16 or 60-7B-1 NMSA 1978 by selling, serving or delivering alcoholic beverages to an intoxicated person or a minor through a drive up window at a minimum shall have:~~

~~(1) upon a first violation of this subsection,~~

1 ~~the privilege to sell alcoholic beverages or any other goods from~~  
2 ~~his drive-up window suspended by the director for a period of two~~  
3 ~~weeks;~~

4 ~~(2) upon a second violation of this subsection, the~~  
5 ~~privilege to sell alcoholic beverages or any other goods from his~~  
6 ~~drive-up window suspended by the director for a period of thirty~~  
7 ~~days;~~

8 ~~(3) upon a third violation of this subsection, the~~  
9 ~~privilege to sell alcoholic beverages or any other goods from his~~  
10 ~~drive-up window suspended by the director for a period of sixty~~  
11 ~~days; and~~

12 ~~(4) upon a fourth violation of this subsection~~  
13 ~~within two years of any other violations of Section 60-7A-16 or 60-~~  
14 ~~7B-1 NMSA 1978, the privilege to sell alcoholic beverages or any~~  
15 ~~other goods from his drive-up window revoked by the director and~~  
16 ~~the drive-up window permanently closed.~~

17 ~~D.-] C.~~ Any licensee aggrieved by a revocation, suspension  
18 or fine proposed to be imposed by the director pursuant to this  
19 section shall be entitled to the hearing procedures set forth in  
20 ~~[Article 6C of Chapter 60 NMSA 1978]~~ Chapter 60, Article 6C NMSA  
21 1978 before the revocation, suspension or fine shall be effective.

22 ~~[E.-] D.~~ Any charge filed against a licensee by the  
23 department and the resulting disposition of the charge shall be  
24 reported to the department of public safety and local law  
25 enforcement agencies whose jurisdictions include the licensed

1 establishment. "

2 Section 2. Section 60-7A-1 NMSA 1978 (being Laws 1981,  
3 Chapter 39, Section 47, as amended) is amended to read:

4 "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--CHRISTMAS  
5 DAY SALES--SUNDAY SALES FOR CONSUMPTION OFF THE LICENSED  
6 PREMISES--ELECTIONS. --

7 A. Alcoholic beverages shall be sold, served and consumed  
8 on licensed premises only during the following hours and days:

9 (1) on Mondays from 7:00 a.m. until midnight;

10 (2) on other weekdays from after midnight of the  
11 previous day until 2:00 a.m., then from 7:00 a.m. until midnight,  
12 except as provided in Subsections D, E and [H] G of this section;  
13 and

14 (3) on Sundays only after midnight of the previous  
15 day until 2:00 a.m., except as provided in Subsections C and F of  
16 this section; provided, however, nothing in this section shall  
17 prohibit the consumption at any time of alcoholic beverages in  
18 guest rooms of hotels.

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

24 C. Subject to the provisions of Subsections F and [F] H  
25 of this section, a dispenser, restaurant licensee or club may, upon

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1 payment of an additional fee of one hundred dollars (\$100), obtain  
2 a permit to sell, serve or permit the consumption of alcoholic  
3 beverages by the drink on the licensed premises on Sundays from  
4 [~~12:00~~] noon until midnight and in those years when December 31  
5 falls on a Sunday from [~~12:00~~] noon until 2:00 a.m. of the  
6 following day, except as otherwise provided in Subsection F of this  
7 section. The permit shall expire on June 30 of each year and may  
8 be renewed from year to year upon application for renewal and  
9 payment of the required fee. The permit fee shall not be prorated.  
10 Sales made pursuant to this subsection or Subsection [~~F~~] H of this  
11 section shall be called "Sunday sales".

12 D. Retailers, dispensers, canopy licensees, restaurant  
13 licensees, club licensees and governmental licensees or its lessees  
14 shall not sell, serve, deliver or allow the consumption of  
15 alcoholic beverages on the licensed premises during voting hours on  
16 the days of the primary election, general election, elections for  
17 officers of a municipality or any other election as prescribed by  
18 the rules and regulations of the director.

19 E. Retailers, dispensers, canopy licensees that were  
20 replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA  
21 1978, restaurant licensees, club licensees and governmental  
22 licensees or its lessees shall not sell, serve, deliver or allow  
23 the consumption of alcoholic beverages on the licensed premises  
24 from 2:00 a.m. on Christmas day until 7:00 a.m. on the day after  
25 Christmas, except as permitted pursuant to Subsection [~~H~~] G of this

1 section.

2 F. At the 1984 general election, the secretary of state  
 3 shall order placed on the ballot in each local option district the  
 4 question "Shall Sunday sales of alcoholic beverages by the drink  
 5 for consumption on the licensed premises of licensees be allowed in  
 6 this local option district?". If the secretary of state determines  
 7 a need, he may authorize the use of paper ballots for the purpose  
 8 of the election provided for pursuant to this subsection. Until  
 9 [~~such~~] the election, Sunday sales shall be permitted on the same  
 10 basis in any local option district as provided under any former  
 11 act, and the election held at the first general election following  
 12 the effective date of the Liquor Control Act shall have no effect  
 13 on whether Sunday sales are permitted in any local option district.  
 14 If the question is disapproved by a majority of those voting upon  
 15 the question in the local option district, Sunday sales shall be  
 16 unlawful in that local option district upon certification of the  
 17 election returns, and the question shall not again be placed on the  
 18 ballot in that local option district until:

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

20 (2) a petition is filed with the local governing  
 21 body bearing the signatures of registered qualified electors of the  
 22 local option district equal in number to ten percent of the number  
 23 of votes cast and counted in the local option district for governor  
 24 in the last preceding general election in which a governor was  
 25 elected. The signatures on the petition shall be verified by the

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1 clerk of the county in which the local option district is situated.

2 ~~[G. The local governing body of a local option district~~  
3 ~~in an eligible county shall:~~

4 ~~(1) adopt a resolution within sixty days of April 7,~~  
5 ~~1989 calling for an election to place on the ballot the question~~  
6 ~~"Shall a retailer or dispenser be allowed to sell or deliver~~  
7 ~~alcoholic beverages at any time from a drive-up window?";~~

8 ~~(2) arrange for the election to be held within sixty~~  
9 ~~days after the date the resolution is adopted; and~~

10 ~~(3) ensure that the election is called, conducted,~~  
11 ~~counted and canvassed in the manner provided by law for elections~~  
12 ~~within the county.~~

13 ~~As used in this subsection, "eligible county" means any county~~  
14 ~~that, according to motor vehicle statistics reported to the state~~  
15 ~~highway and transportation department during the years 1985 and~~  
16 ~~1986, convicted more than twenty-five persons for each one thousand~~  
17 ~~licensed drivers of driving while intoxicated offenses.~~

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



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

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

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

19 [~~J.~~] I. Subject to the provisions of Subsection [~~K~~] J of  
20 this section, a dispenser or retailer, upon payment of an  
21 additional fee of one hundred dollars (\$100), may obtain a permit  
22 to sell alcoholic beverages in unbroken packages for consumption  
23 off the licensed premises on Sundays from [~~12:00~~] noon until  
24 midnight and, in those years when December 31 falls on a Sunday,  
25 from [~~12:00~~] noon on December 31 until 2:00 a.m. of the following

1 day. The permit shall expire on June 30 of each year and may be  
 2 renewed from year to year upon application for renewal and payment  
 3 of the required fee. The permit fee shall not be prorated. Sales  
 4 made pursuant to the provisions of this subsection shall be called  
 5 "Sunday package sales".

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

1 option district voting in the election votes not to allow the  
2 Sunday package sales, then those Sunday package sales shall be  
3 prohibited commencing the first Sunday after the results of the  
4 election are certified. Following the election, the question of  
5 allowing the Sunday package sales shall not be submitted again to  
6 the voters within two years of the date of the last election on the  
7 question. "

8 Section 3. Section 60-7A-22 NMSA 1978 (being Laws 1981,  
9 Chapter 39, Section 108, as amended) is amended to read:

10 "60-7A-22. DRINKING IN PUBLIC ESTABLISHMENTS--SELLING OR  
11 SERVING ALCOHOLIC BEVERAGES OTHER THAN IN LICENSED ESTABLISHMENTS--  
12 SELLING ALCOHOLIC BEVERAGES AT A DRIVE-UP WINDOW. --

13 A. It is a violation of the Liquor Control Act for any  
14 person to consume alcoholic beverages in any public establishment  
15 unless the establishment is licensed to sell and serve alcoholic  
16 beverages.

17 B. It is a violation of the Liquor Control Act for any  
18 person not a licensee to sell, serve or permit the consumption of  
19 alcoholic beverages in his public establishment or private club.

20 C. ~~[On or after the effective date of the Liquor Control~~  
21 ~~Act, no new drive-up windows used for the sale of alcoholic~~  
22 ~~beverages shall be permitted by the director; provided, however,~~  
23 ~~licensed premises that include drive-up windows may be relocated~~  
24 ~~and include a drive-up window if the lease on the current licensed~~  
25 ~~premises expires.] It is a violation of the Liquor Control Act for~~

1 any licensee to sell alcoholic beverages at a drive-up window. "

2 Section 4. EFFECTIVE DATE. --The effective date of the  
3 provisions of this act is July 1, 1996.

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1 SF1/SB 108

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3 FORTY-SECOND LEGISLATURE  
4 SECOND SESSION  
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7 February 14, 1996  
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9  
10 HOUSE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE FLOOR SUBSTITUTE FOR  
11 SENATE BILL 108  
12

13 Amendment sponsored by Representative James G. Taylor  
14

15  
16 1. On page 1, line 11, strike "PROHIBITING" and insert in lieu  
17 thereof "AUTHORIZING LOCAL OPTION ELECTIONS PERTAINING TO".  
18

19 2. On page 1, strike lines 16 through 25, strike pages 2 and 3 and  
20 on page 4, strike lines 1 through 5 in their entirety.  
21

22 3. Renumber the succeeding sections accordingly.  
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25 .112223.1

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FORTY-SECOND LEGISLATURE  
SECOND SESSION

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HF/SFL/SB 108

Page 39

4. On page 7, remove the bracket and line-through on lines 7 through 17.
5. On page 7, line 8, strike "in an eligible county".
6. On page 7, line 12, strike "at any time".
7. On page 7, line 18, at the beginning of the line insert an opening bracket.
8. Reletter succeeding subsections accordingly.
9. On page 11, strike lines 13 through 25 and on page 12, strike lines 1 through 6 in their entirety.
10. Renumber the succeeding section accordingly.
11. Adjust all references and cross references accordingly.

FORTY-SECOND LEGISLATURE  
SECOND SESSION

SF1/SB 108

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\_\_\_\_\_  
James G. Taylor

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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# State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

February 13, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE FLOOR SUBSTITUTE  
FOR SENATE BILL 108, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. Strike House Business and Industry Committee Amendments 1  
through 3.

Respectfully submitted,

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Cisco McSorley, Chairman

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

SF1/SB 108

HJC/SF/SB 108, aa

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 1 Against

Yes: 11

No: Baca

Excused: Sanchez, R. G.

Absent: None

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