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HOUSE BILL 303

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

INTRODUCED BY

John A. Heaton

AN ACT

**RELATING TO ALCOHOLIC BEVERAGES; PERMITTING SUNDAY SALES,
SERVICE AND CONSUMPTION OF ALCOHOL AT RESORTS; AMENDING
SECTIONS OF THE LIQUOR CONTROL ACT; DECLARING AN EMERGENCY.**

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 of this section and Section 60-7A-2 NMSA
7 1978; provided, however, nothing in this section shall
8 prohibit the consumption at any time of alcoholic beverages in
9 guest rooms of hotels.

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

16 C. [~~Subject to the provisions of Subsections E and~~
17 ~~G of this section~~] A dispenser, restaurant licensee or club
18 may, upon payment of an additional fee of one hundred dollars
19 (\$100), obtain a permit to sell, serve or permit the
20 consumption of alcoholic beverages by the drink on 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 until 2:00 a.m. of the following day, except as
24 otherwise provided in Subsection E of this section. The
25 permit shall expire on June 30 of each year and may be renewed

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1 from year to year upon application for renewal and payment of
2 the required fee. The permit fee shall not be prorated.
3 Sales made pursuant to this subsection or Subsection G of this
4 section shall be called "Sunday sales".

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

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

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1 ~~option district. If the question is disapproved by a majority~~
2 ~~of those voting upon the question in the local option~~
3 ~~district]~~ Sunday sales pursuant to the provisions of
4 Subsection C of this section are permitted in a local option
5 district that voted to permit them in the 1984 general
6 election. If in that election a majority of the voters in a
7 local option district voted "no" on the question "Shall Sunday
8 sales of alcoholic beverages by the drink for consumption on
9 the licensed premises of licensees be allowed in this local
10 option district?", Sunday sales [shall be] are unlawful in
11 that local option district upon certification of the election
12 returns [and] unless the provisions of Subsection J of this
13 section apply. The question shall not again be placed on the
14 ballot in that local option district until:

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

16 (2) a petition is filed with the local

17 governing body bearing the signatures of registered qualified
18 electors of the local option district equal in number to ten
19 percent of the number of votes cast and counted in the local
20 option district for governor in the last preceding general
21 election in which a governor was elected. The signatures on
22 the petition shall be verified by the clerk of the county in
23 which the local option district is situated.

24 F. On and after July 1, 1989, dispensers, canopy
25 licensees that were replaced by dispenser's licensees pursuant

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1 to Section 60-6B-16 NMSA 1978, restaurant licensees, club
2 licensees and governmental licensees or lessees of these
3 licensees may sell, serve or allow the consumption of beer and
4 wine with meals on licensed premises from noon until 10:00
5 p.m. on Christmas day, except in a local option district in
6 which, pursuant to petition and election under this
7 subsection, a majority of the voters voting on the question
8 votes against continuing such sales or consumption on
9 Christmas day. An election shall be held on the question of
10 whether to continue to allow the sale, service or consumption
11 of beer and wine with meals on licensed premises from noon
12 until 10:00 p.m. on Christmas day in a local option district,
13 if a petition requesting the governing body of that district
14 to call the election is signed by at least ten percent of the
15 registered voters of the district and is filed with the clerk
16 of the governing body of the district. Upon verification by
17 the clerk that the petition contains the required number of
18 signatures of registered voters, the governing body shall
19 adopt a resolution calling an election on the question of
20 allowing the sale, service or consumption of beer and wine
21 with meals on licensed premises from noon until 10:00 p.m. on
22 Christmas day. The election shall be held within sixty days
23 after the date the petition is verified, or it may be held in
24 conjunction with a regular election of the governing body if
25 that election occurs within sixty days of such verification.

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1 The election shall be called, conducted, counted and canvassed
2 in substantially the same manner as provided for general
3 elections in the county under the Election Code or for special
4 municipal elections in a municipality under the Municipal
5 Election Code. If a majority of the voters voting on the
6 question votes against continuing the sale, service or
7 consumption of beer and wine with meals on licensed premises
8 from noon until 10:00 p.m. on Christmas day, then such sales
9 and consumption shall be prohibited. If a majority of the
10 voters voting on the question votes to allow continued sale,
11 service and consumption of beer and wine with meals on
12 licensed premises from noon until 10:00 p.m. on Christmas day,
13 then such sales and consumption shall be allowed to continue.
14 The question then shall not be submitted again to the voters
15 within two years of the date of the last election on the
16 question.

17 G. Notwithstanding the provisions of Subsection E
18 of this section, any Indian tribe or pueblo whose lands are
19 wholly situated within the state that has, by statute,
20 ordinance or resolution, elected to permit the sale,
21 possession or consumption of alcoholic beverages on lands
22 within the territorial boundaries of the tribe or pueblo may,
23 by statute, ordinance or resolution of the governing body of
24 the Indian tribe or pueblo, permit Sunday sales by the drink
25 on the licensed premises of licensees on lands within the

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1 territorial boundaries of the tribe or pueblo; provided that a
2 certified copy of such enactment is filed with the office of
3 the director and of the secretary of state.

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

16 I. If a petition requesting the governing body of
17 a local option district to call an election on the question of
18 continuing to allow sales of alcoholic beverages in unbroken
19 packages for consumption off the licensed premises on Sundays
20 is filed with the clerk of the governing body and that
21 petition is signed by at least ten percent of the number of
22 registered voters of the local option district and the clerk
23 of the governing body verifies the petition signatures, the
24 governing body shall adopt a resolution calling an election on
25 the question. The election shall be held within sixty days of

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

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

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

24 "60-7A-2. SUNDAY SALES AT RACETRACKS AND RESORTS. --

25 A. Notwithstanding other provisions of the Liquor

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1 Control Act, it is lawful for a dispenser:

2 (1) whose licensed premises are located on a
3 [public horseracing track] horse racetrack licensed by the
4 state racing commission, to sell, serve or permit the
5 consumption of alcoholic beverages by the drink on Sunday
6 during the racing season between the hours of 12:00 noon and
7 11:00 p. m ; or

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

13 B. As used in this section, "resort" means a
14 lodging establishment or complex, open to the public, offering
15 at least one hundred guest rooms or at least one hundred
16 recreational vehicle parking or camping spaces and where meals
17 are regularly furnished to the public. The establishment or
18 complex shall:

19 (1) offer at least two of the following
20 recreational activities:

21 (a) nine or eighteen holes of golf;

22 (b) tennis;

23 (c) water park facilities;

24 (d) horseback riding;

25 (e) snow skiing;

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(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. "

Section 3. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect
immediately.