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SENATE BILL 768

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO LICENSING; PROVIDING FOR A CITIZEN REFERENDUM ON THE ISSUANCE OR TRANSFER OF LIQUOR LICENSES; AMENDING AND ENACTING SECTIONS OF THE LIQUOR CONTROL ACT.

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

Section 1. Section 60-6B-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 40) is amended to read:

"60-6B-4. ISSUANCE OR TRANSFER OF LICENSE-- APPROVAL OF APPROPRIATE GOVERNING BODY. --

A. Prior to the approval of the issuance of a new license, and prior to the approval of any transfer permitted by Section [~~39 or 113 of the Liquor Control Act~~] 60-6B-3 or 60-6B-12 NMSA 1978, the director shall notify the governing body of his preliminary approval of the issuance or transfer of the license. Notice to the governing body shall be by

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1 certified mail.

2 B. A governing body which has received a notice of
3 preliminary approval of the issuance or transfer of a license
4 from the department may approve or disapprove the issuance or
5 transfer of the license in accordance with the provisions of
6 this section.

7 C. Within forty-five days after receipt of a notice
8 of preliminary approval from the department, the governing body
9 shall hold a public hearing on the question of whether the
10 department should approve the proposed issuance or transfer.

11 D. Notice of the public hearing required by
12 Subsection C of this section shall be given by the governing
13 body by:

14 (1) publishing a notice of the date, time and
15 place of the hearing at least once a week for two consecutive
16 weeks in a newspaper of general circulation within the
17 territorial limits of the governing body. The notice shall set
18 forth:

19 (a) the name and address of the
20 licensee;

21 (b) the action proposed to be taken by
22 the department;

23 (c) the location of the licensee's
24 premises; and

25 (d) such other information as may be

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1 required by the department; and

2 (2) sending a notice by certified mail to the
3 applicant of the date, time and place of the public hearing.

4 E. The governing body may designate a hearing
5 officer to conduct the hearing. A record shall be made of the
6 hearing.

7 F. The governing body [~~may~~] shall disapprove the
8 issuance or transfer of the license if:

9 (1) the proposed location is within an area
10 where the sale of alcoholic beverages is prohibited by the laws
11 of New Mexico;

12 (2) the issuance or transfer would be in
13 violation of a zoning or other ordinance of the governing body;
14 or

15 (3) the issuance or transfer would be
16 detrimental to the public health, safety or morals of the
17 residents of the local option district.

18 G. Within thirty days after the public hearing, the
19 governing body shall notify the department as to whether the
20 governing body has approved or disapproved the proposed
21 issuance or transfer of the license. If the governing body
22 fails to either approve or disapprove the issuance or transfer
23 of the license within thirty days after the public hearing, the
24 director may give final approval to the issuance or transfer of
25 the license.

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1 H. If the governing body disapproves the issuance
2 or transfer of the license, it shall notify the department
3 within the time required by Subsection G of this section
4 setting forth the reasons for the disapproval. A copy of the
5 minutes of the public hearing shall be submitted to the
6 department by the governing body with the notice of
7 disapproval. If the governing body disapproves of the issuance
8 or transfer of the license, the director shall disapprove the
9 issuance or transfer of the license.

10 I. If the governing body approves the issuance or
11 transfer of the license, it shall notify the department within
12 the time required by Subsection G of this section of its
13 approval. If the governing body approves of the issuance or
14 transfer of the license, the director shall approve the
15 issuance or transfer of the license.

16 J. The provisions of Subsections F, G, H and I of
17 this section shall not apply if a petition is filed pursuant to
18 Section 60-6B-4.1 NMSA 1978."

19 Section 2. A new section of the Liquor Control Act,
20 Section 60-6B-4.1 NMSA 1978, is enacted to read:

21 "60-6B-4.1. [NEW MATERIAL] CITIZEN REFERENDUM -
22 PROCEDURES. --

23 A. If, prior to the conclusion of the public
24 hearing required in Subsection C of Section 60-6B-4 NMSA 1978,
25 the governing body of a county receives a petition, signed by

. 155286. 1

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1 more than twenty percent of the number of voters who voted at
2 the previous regular county election, requesting a referendum
3 on the approval or disapproval of the issuance of a new license
4 or transfer of an existing license, the question shall be put
5 on the ballot at the next general election.

6 B. If, prior to the conclusion of the public
7 hearing required in Subsection C of Section 60-6B-4 NMSA 1978,
8 the governing body of a municipality receives a petition,
9 signed by more than twenty percent of the number of voters who
10 voted at the previous regular municipal election, requesting a
11 referendum on the approval or disapproval of the issuance of a
12 new license or transfer of an existing license, the question
13 shall be put on the ballot at the next general election.

14 C. Upon certification of the results of the
15 referendum required pursuant to Subsection A or B of this
16 section, the certifying officer shall notify the department of
17 the results of the referendum.

18 D. If the results of the referendum required
19 pursuant to Subsection A or B of this section are in favor of
20 the approval of the issuance of a new license or transfer of an
21 existing license, the director shall approve the issuance or
22 transfer of the license.

23 E. If the results of the referendum required
24 pursuant to Subsection A or B of this section are not in favor
25 of the approval of the issuance of a new license or transfer of

1 an existing license, the director shall disapprove the issuance
2 or transfer of the license. "

3 Section 3. APPLICABILITY. --The provisions of this act
4 shall apply to applications for the issuance or transfer of
5 liquor licenses submitted to the director on or after the
6 effective date of this act.

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