

1 SENATE BILL 351

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Ron Griggs

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9
10 AN ACT

11 RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR A LOCAL OPTION
12 DISTRICT TO LIMIT THE NUMBER OF LICENSES IN ITS TERRITORY;
13 ADDRESSING RETAILER'S LICENSES; CREATING A LIMITED RETAILER'S
14 LICENSE; ADDRESSING DISPENSER'S LICENSES; CREATING A FOOD
15 SERVICE LICENSE; DIFFERENTIATING BETWEEN LICENSES ISSUED BEFORE
16 AND ON OR AFTER JULY 1, 2013; PROVIDING FOR CERTAIN DISPENSER
17 LICENSEES TO ALSO RECEIVE RETAILER'S LICENSES; CREATING A
18 LIMITED DISPENSER'S LICENSE; ALLOWING STATEWIDE TRANSFER OF
19 LICENSES ISSUED PRIOR TO JULY 1, 2013; ADDING AND CHANGING
20 LICENSE FEES; CHANGING THE LIMITATION ON THE NUMBER OF LICENSES
21 TO BE ISSUED; CHANGING THE TERMS OF INTER-LOCAL OPTION DISTRICT
22 TRANSFERS.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

25 SECTION 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,

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1 Chapter 39, Section 3, as amended) is amended to read:

2 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
3 Act:

4 A. "alcoholic beverages" means distilled or
5 rectified spirits, potable alcohol, brandy, whiskey, rum, gin
6 and aromatic bitters bearing the federal internal revenue strip
7 stamps or any similar alcoholic beverage, including blended or
8 fermented beverages, dilutions or mixtures of one or more of
9 the foregoing containing more than one-half percent alcohol,
10 but excluding medicinal bitters;

11 B. "beer" means an alcoholic beverage obtained by
12 the fermentation of any infusion or decoction of barley, malt
13 and hops or other cereals in water, and includes porter, beer,
14 ale and stout;

15 C. "brewer" means a person who owns or operates a
16 business for the manufacture of beer;

17 D. "club" means:
18 (1) any nonprofit group, including an
19 auxiliary or subsidiary group, organized and operated under the
20 laws of this state, with a membership of not less than fifty
21 members who pay membership dues at the rate of not less than
22 five dollars (\$5.00) per year and who, under the constitution
23 and bylaws of the club, have all voting rights and full
24 membership privileges, and which group is the owner, lessee or
25 occupant of premises used exclusively for club purposes and

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1 which group the director finds:

2 (a) is operated solely for recreation,
3 social, patriotic, political, benevolent or athletic purposes;
4 and

5 (b) has been granted an exemption by the
6 United States from the payment of the federal income tax as a
7 club under the provisions of Section 501(a) of the Internal
8 Revenue Code of 1986, as amended, or, if the applicant has not
9 operated as a club for a sufficient time to be eligible for the
10 income tax exemption, it must execute and file with the
11 director a sworn letter of intent declaring that it will, in
12 good faith, apply for an income tax exemption as soon as it is
13 eligible; or

14 (2) an airline passenger membership club
15 operated by an air common carrier that maintains or operates a
16 clubroom at an international airport terminal. As used in this
17 paragraph, "air common carrier" means a person engaged in
18 regularly scheduled air transportation between fixed termini
19 under a certificate of public convenience and necessity issued
20 by the federal aviation administration;

21 E. "commission" means the secretary of public
22 safety when the term is used in reference to the enforcement
23 and investigatory provisions of the Liquor Control Act and
24 means the superintendent of regulation and licensing when the
25 term is used in reference to the licensing provisions of the

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1 Liquor Control Act;

2 F. "department" means the special investigations
3 division of the department of public safety when the term is
4 used in reference to the enforcement and investigatory
5 provisions of the Liquor Control Act and means the director of
6 the alcohol and gaming division of the regulation and licensing
7 department when the term is used in reference to the licensing
8 provisions of the Liquor Control Act;

9 G. "director" means the director of the special
10 investigations division of the department of public safety
11 when the term is used in reference to the enforcement and
12 investigatory provisions of the Liquor Control Act and means
13 the director of the alcohol and gaming division of the
14 regulation and licensing department when the term is used in
15 reference to the licensing provisions of the Liquor Control
16 Act;

17 H. "dispenser" means a person licensed under the
18 provisions of the Liquor Control Act selling, offering for sale
19 or having in the person's possession with the intent to sell
20 alcoholic beverages both by the drink for consumption on the
21 licensed premises and in unbroken packages for consumption and
22 not for resale off the licensed premises;

23 I. "distiller" means a person engaged in
24 manufacturing spirituous liquors;

25 J. "food service license" means a license issued to

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1 a person pursuant to the provisions of the Liquor Control Act
2 permitting the person to sell, offer for sale or have in the
3 person's possession with the intent to sell alcoholic beverages
4 by the drink for consumption on the licensed premises that is a
5 restaurant subject to the conditions in Section 60-6A-3 NMSA
6 1978;

7 [J-] K. "golf course" means a tract of land and
8 facilities used for playing golf and other recreational
9 activities that includes tees, fairways, greens, hazards,
10 putting greens, driving ranges, recreational facilities,
11 patios, pro shops, cart paths and public and private roads that
12 are located within the tract of land;

13 [K-] L. "governing body" means the board of county
14 commissioners of a county or the city council or city
15 commissioners of a municipality;

16 [L-] M. "hotel" means an establishment or complex
17 having a resident of New Mexico as a proprietor or manager and
18 where, in consideration of payment, meals and lodging are
19 regularly furnished to the general public. The establishment
20 or complex must maintain for the use of its guests a minimum of
21 twenty-five sleeping rooms;

22 [M-] N. "licensed premises" means the contiguous
23 areas or areas connected by indoor passageways of a structure
24 and the outside dining, recreation and lounge areas of the
25 structure and the grounds and vineyards of a structure that is

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1 a winery that are under the direct control of the licensee and
2 from which the licensee is authorized to sell, serve or allow
3 the consumption of alcoholic beverages under the provisions of
4 its license; provided that in the case of a restaurant,
5 "licensed premises" includes a restaurant that has operated
6 continuously in two separate structures since July 1, 1987 and
7 that is located in a local option district that has voted to
8 disapprove the transfer of liquor licenses into that local
9 option district, hotel, golf course or racetrack and all public
10 and private rooms, facilities and areas in which alcoholic
11 beverages are sold or served in the customary operating
12 procedures of the restaurant, hotel, golf course or racetrack.
13 "Licensed premises" also includes rural dispenser licenses
14 located in the unincorporated areas of a county with a
15 population of less than thirty thousand, located in buildings
16 in existence as of January 1, 2012, that are within one hundred
17 fifty feet of one another and that are under the direct control
18 of the license holder;

19 0. "limited dispenser" means a person licensed as a
20 dispenser prior to July 1, 2013 that has elected to be issued a
21 separate retailer's license pursuant to Section 60-6A-3 NMSA
22 1978, thus limiting the person's authority under the original
23 license to the sale, offer for sale or possession with the
24 intent to sell alcoholic beverages by the drink for consumption
25 on the licensed premises;

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1 P. "limited retailer" means a person licensed under
2 the provisions of the Liquor Control Act selling, offering for
3 sale or having in the person's possession with the intent to
4 sell alcoholic beverages in unbroken packages for consumption
5 and not for resale off the licensed premises subject to the
6 limitations in Section 60-6A-2 NMSA 1978;

7 ~~[N-]~~ Q. "local option district" means a county that
8 has voted to approve the sale, serving or public consumption of
9 alcoholic beverages, or an incorporated municipality that falls
10 within a county that has voted to approve the sale, serving or
11 public consumption of alcoholic beverages, or an incorporated
12 municipality of over five thousand population that has
13 independently voted to approve the sale, serving or public
14 consumption of alcoholic beverages under the terms of the
15 Liquor Control Act or any former act;

16 ~~[O-]~~ R. "manufacturer" means a distiller,
17 rectifier, brewer or winer;

18 ~~[P-]~~ S. "minor" means a person under twenty-one
19 years of age;

20 ~~[Q-]~~ T. "package" means an immediate container of
21 alcoholic beverages that is filled or packed by a manufacturer
22 or wine bottler for sale by the manufacturer or wine bottler to
23 wholesalers;

24 ~~[R-]~~ U. "person" means an individual, corporation,
25 firm, partnership, copartnership, association or other legal

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1 entity;

2 [S-] V. "rectifier" means a person who blends,
3 mixes or distills alcohol with other liquids or substances for
4 the purpose of making an alcoholic beverage for the purpose of
5 sale other than to the consumer by the drink, and includes all
6 bottlers of spirituous liquors;

7 [F-] W. "restaurant" means an establishment having
8 a New Mexico resident as a proprietor or manager that is held
9 out to the public as a place where meals are prepared and
10 served primarily for on-premises consumption to the general
11 public in consideration of payment and that has a dining room,
12 a kitchen and the employees necessary for preparing, cooking
13 and serving meals; provided that "restaurant" does not include
14 establishments as defined in rules promulgated by the director
15 serving only hamburgers, sandwiches, salads and other fast
16 foods;

17 [U-] X. "retailer" means a person licensed under
18 the provisions of the Liquor Control Act selling, offering for
19 sale or having in the person's possession with the intent to
20 sell alcoholic beverages in unbroken packages for consumption
21 and not for resale off the licensed premises;

22 [V-] Y. "spirituous liquors" means alcoholic
23 beverages as defined in Subsection A of this section except
24 fermented beverages such as wine, beer and ale;

25 [W-] Z. "wholesaler" means a person whose place of

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1 business is located in New Mexico and who sells, offers for
2 sale or possesses for the purpose of sale any alcoholic
3 beverages for resale by the purchaser;

4 [X.] AA. "wine" includes the words "fruit juices"
5 and means alcoholic beverages obtained by the fermentation of
6 the natural sugar contained in fruit or other agricultural
7 products, with or without the addition of sugar or other
8 products, that do not contain less than one-half percent nor
9 more than twenty-one percent alcohol by volume;

10 [Y.] BB. "wine bottler" means a New Mexico
11 wholesaler who is licensed to sell wine at wholesale for resale
12 only and who buys wine in bulk and bottles it for wholesale
13 resale;

14 [Z.] CC. "winegrower" means a person who owns or
15 operates a business for the manufacture of wine;

16 [AA.] DD. "winer" means a winegrower; and

17 [BB.] EE. "winery" means a facility in which a
18 winegrower manufactures and stores wine."

19 SECTION 2. Section 60-5A-1 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 15, as amended) is amended to read:

21 "60-5A-1. ELECTIONS FOR LOCAL OPTION--LIMITING
22 LICENSES.--~~[Any municipality containing over five thousand~~
23 ~~population according to the latest United States census,~~
24 ~~whether the county in which that municipality is situated has~~
25 ~~adopted the local option provisions of the Liquor Control Act~~

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1 ~~or any former act or not, or any county in the state may adopt~~
2 ~~local option in the county or municipality upon the following~~
3 ~~terms and conditions:~~

4 ~~A. at any time after the effective date of the~~
5 ~~Liquor Control Act, the registered qualified electors of any~~
6 ~~proposed local option district may petition the governing body~~
7 ~~by filing one or more petitions in the appropriate office to~~
8 ~~hold an election for the purpose of determining whether the~~
9 ~~county or municipality shall adopt the local option provisions~~
10 ~~of the Liquor Control Act. If]~~

11 A. Alcoholic beverages shall not be sold, served or
12 consumed in public in a county or municipality that has not
13 become a local option district pursuant to the Liquor Control
14 Act or any former act. A county or municipality that did not
15 become a local option district prior to July 1, 2013 pursuant
16 to the Liquor Control Act or any former act may hold an
17 election to become a local option district pursuant to this
18 section.

19 B. In a county or municipality that did not become
20 a local option district prior to July 1, 2013, the registered
21 qualified electors of any proposed local option district may
22 petition the governing body by filing one or more petitions in
23 the appropriate clerk's office to hold an election for the
24 purpose of determining whether the county or municipality shall
25 become a local option district pursuant to the Liquor Control

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1 Act. The election shall be held pursuant to Subsection D of
2 this section.

3 C. In a local option district created pursuant to
4 the Liquor Control Act or any former act, the registered
5 qualified electors of the local option district may petition
6 the governing body by filing one or more petitions in the
7 appropriate clerk's office to hold an election for the purpose
8 of determining whether to limit the number of licenses in the
9 local option district to those issued prior to July 1, 2013 or
10 to allow additional licenses in a certain number over a period
11 of time if the license allotment method in Section 60-6A-18
12 NMSA 1978 provides for additional licenses in that local option
13 district. If a petition is to limit additional licenses to a
14 certain number over a period of time, the number and period of
15 time shall be stated in the petition. An election shall be
16 held pursuant to Subsection D of this section.

17 D. An election on the question of becoming a local
18 option district or on the question of limiting the number of
19 licenses shall be held as follows:

20 (1) if the aggregate of the signatures of
21 [such] the electors on all the petitions equals or exceeds five
22 percent of the number of registered voters of the local option
23 district or the proposed district, the governing body shall
24 call an election within seventy-five days of the verification
25 of the petition. The date of the filing of the petition shall

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1 be the date of the filing of the last petition [~~which~~] that
2 brings the number of signatures up to the required five
3 percent; provided, however, that the governing body shall
4 refuse to recognize the petition if more than three months have
5 elapsed between the date of the first signature and the filing
6 of the last petition necessary to bring the number of
7 signatures on the petition up to five percent;

8 [~~B-~~] (2) the election shall be called,
9 conducted, counted and canvassed substantially in the manner
10 provided by law for general elections within the county or
11 special municipal elections within the municipality, except as
12 otherwise provided in this section;

13 [~~G-~~] (3) the votes at the election shall be
14 counted, returned and canvassed as provided for in the case of
15 general elections within the county or special municipal
16 elections within the municipality;

17 [~~D-~~] (4) except as otherwise provided in this
18 section, contests, recounts and rechecks shall be permitted as
19 provided for in the case of candidates for county office in
20 general elections or as provided for in the case of special
21 municipal elections within the municipality. Applications for
22 contests, recounts or rechecks may be filed by any person who
23 voted in the election, and service shall be made upon the
24 county clerk or municipal clerk as the case may be;

25 [~~E-~~] (5) if [~~a~~] the majority of all the votes

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1 cast at the election are cast in favor of [~~the sale, service or~~
2 ~~public consumption of alcoholic beverages in the county or~~
3 ~~municipality~~] becoming a local option district or of limiting
4 the number of licenses, the [~~chairman~~] chair of the governing
5 body shall declare by order entered upon the records of the
6 county or municipality that the county or municipality has
7 adopted the local option provisions of the Liquor Control Act
8 or has limited the number of licenses as petitioned and shall
9 notify the department of [~~such~~] the results;

10 [F-] (6) no election held pursuant to this
11 section shall be held within forty-two days of [~~any~~] a primary,
12 general, municipal or school district election. If within
13 sixty days from the verification of [~~any~~] a petition as
14 provided in [~~Subsection A~~] Subsections B and C of this section
15 a primary, general, municipal or school election is held, the
16 governing body may call an election for a day not less than
17 sixty days after the primary, general, municipal or school
18 election;

19 [G-] (7) if an election is held under the
20 provisions of the Liquor Control Act in [~~any~~] a county [~~which~~]
21 that contains within its limits [~~any~~] a municipality of more
22 than five thousand persons according to the [~~last~~] latest
23 United States census, it is not necessary for the registered
24 qualified electors in the municipality to file a separate
25 petition asking for a separate or different vote on the

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1 question of adopting the local option provisions of the Liquor
2 Control Act by the municipality. The election in the county
3 shall be conducted so as to separate the votes in the
4 municipality from those in the remaining parts of the county.
5 If a majority of the voters in the county, including the voters
6 in the municipality, vote against the sale, service or public
7 consumption of alcoholic beverages in the county, the county
8 shall not adopt the local option provisions of the Liquor
9 Control Act; but if a majority of the votes in the municipality
10 are in favor of the sale, service or public consumption of
11 alcoholic beverages, the municipality shall have adopted the
12 local option provisions of the Liquor Control Act. Nothing
13 contained in this subsection shall prevent any municipality
14 from having a separate election under the terms of this
15 section;

16 ~~[H. any county or municipality composing a local~~
17 ~~option district under the provisions of the Liquor Control Act~~
18 ~~or any former act may vote to discontinue the sale, service or~~
19 ~~public consumption of alcoholic beverages in the local option~~
20 ~~district; the discontinuance shall become effective on the~~
21 ~~ninetieth day after the local option election is held] and~~

22 ~~[F.]~~ (8) nothing in this section shall
23 invalidate any local option election held pursuant to any
24 former act prior to July 1, 1981."

25 SECTION 3. Section 60-5A-2 NMSA 1978 (being Laws 1981,

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1 Chapter 39, Section 16) is amended to read:

2 "60-5A-2. RESUBMISSION OF LOCAL OPTION QUESTION OR
3 LICENSE LIMITATION QUESTION.--~~[In any local option district]~~

4 A. In a county or municipality in which the local
5 option provisions of the Liquor Control Act or former act have
6 been rejected by the voters, it shall be permissible after the
7 expiration of two years from the date of the election at which
8 the local option provisions of the Liquor Control Act or any
9 former act were rejected to have another local option election
10 in the ~~[district]~~ county or municipality by following the
11 procedure provided for in Section ~~[15 of the Liquor Control~~
12 ~~Act. At the option of the petitioners referred to in~~
13 ~~Subsection A of Section 15 of that act, it shall be permissible~~
14 ~~to resubmit to the voters of one district not only the question~~
15 ~~of the sale, service or public consumption of alcoholic~~
16 ~~beverages, but it shall also be permissible to petition for a~~
17 ~~local option election for the purpose of submitting to the~~
18 ~~voters of the district the question of permitting the sale of~~
19 ~~alcoholic beverages by retailers only in the district]~~ 60-5A-1
20 NMSA 1978.

21 B. In a local option district that imposed a
22 limitation on the number of licenses, no less than five years
23 following the election that imposed the limitation, the
24 question of raising the limitation on the number of licenses
25 that can be issued in the local option district may be

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1 resubmitted to the registered qualified electors pursuant to
2 the procedure in Section 60-5A-1 NMSA 1978. In no case shall
3 an election reduce the number of licenses permitted in the
4 local option district prior to the election."

5 SECTION 4. Section 60-6A-2 NMSA 1978 (being Laws 1981,
6 Chapter 39, Section 19) is amended to read:

7 "60-6A-2. RETAILER'S LICENSE--LIMITED RETAILER'S
8 LICENSE--TRANSFER OF LICENSE ISSUED PRIOR TO JULY 1, 2013.--

9 ~~[A. In any local option district, a person~~
10 ~~qualified under the provisions of the Liquor Control Act may~~
11 ~~apply for and be issued a retailer's license for the retail~~
12 ~~sale of alcoholic beverages.]~~

13 A. A retailer's license issued prior to July 1,
14 2013 may be transferred to any local option district location
15 in the state, not subject to the license quota pursuant to
16 Section 60-6A-18 NMSA 1978 but subject to a local option
17 district limitation by election pursuant to Section 60-5A-1
18 NMSA 1978 and approval by the governing body of the local
19 option district pursuant to Section 60-6B-4 NMSA 1978. This
20 subsection does not apply to a rural retailer's license, which
21 may be transferred only pursuant to Section 60-6B-12 NMSA 1978.

22 B. Beginning July 1, 2013, if the provisions of
23 Section 60-6A-18 NMSA 1978 indicate the availability for a new
24 license and there has been no local option district election to
25 limit the number of licenses that would otherwise prevent a new

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1 license, a person may apply for and be issued, after submitting
2 an application prescribed by the director and meeting all the
3 requirements of the Liquor Control Act, including local
4 government approval pursuant to Section 60-6B-4 NMSA 1978, a
5 limited retailer's license, subject to the following
6 limitations and conditions:

7 (1) the license is used for a specific
8 licensed premises;

9 (2) the license is not transferable from
10 person to person or from one location to another;

11 (3) when a licensee ceases to operate at the
12 licensed premises, the director shall cancel the license; and

13 (4) except as otherwise specifically provided
14 for limited retailer's licenses, the license is subject to the
15 Liquor Control Act in the same manner as a retailer's license.

16 C. Nothing in this section shall prevent a
17 retailer or a limited retailer from receiving other licenses
18 pursuant to the Liquor Control Act.

19 [~~B.~~] D. A retailer's license [~~when issued~~] or
20 limited retailer's license shall only be used by the person to
21 whom the license is issued and shall only be used within the
22 licensed premises, pursuant to provisions of the Liquor Control
23 Act."

24 SECTION 5. Section 60-6A-3 NMSA 1978 (being Laws 1981,
25 Chapter 39, Section 20) is amended to read:

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1 "60-6A-3. DISPENSER'S LICENSE--SEPARATE RETAILER'S
2 LICENSE--LIMITED DISPENSER'S LICENSE--TRANSFER OF LICENSE
3 ISSUED PRIOR TO JULY 1, 2013--FOOD SERVICE LICENSE.--

4 [~~A. In any local option district, a person~~
5 ~~qualified under the provisions of the Liquor Control Act may~~
6 ~~apply for and be issued a dispenser's license for the sale of~~
7 ~~alcoholic beverages.]~~

8 A. Beginning July 1, 2013, a dispenser whose
9 license was issued prior to July 1, 2013 may elect to convert
10 the dispenser's license to a limited dispenser's license and to
11 be issued a separate retailer's license, subject to
12 qualification pursuant to the Liquor Control Act but not
13 subject to any limitation contained in that act on the number
14 of licenses that may be issued. A limited dispenser's license
15 and a retailer's license issued pursuant to this subsection
16 shall be considered issued prior to July 1, 2013 for purposes
17 of the Liquor Control Act. Except as otherwise specifically
18 provided for a limited dispenser's license, a limited
19 dispenser's license is subject to the Liquor Control Act in the
20 same manner as a dispenser's license.

21 B. A dispenser's license issued prior to July 1,
22 2013 or a limited dispenser's license, except a dispenser's
23 license created by Section 60-6B-16 NMSA 1978, may be
24 transferred to any local option district location in the state,
25 not subject to the license quota pursuant to Section 60-6A-18

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1 NMSA 1978 but subject to a local option district limitation by
2 election pursuant to Section 60-5A-1 NMSA 1978 and approval by
3 the governing body of the local option district pursuant to
4 Section 60-6B-4 NMSA 1978. This subsection does not apply to a
5 rural dispenser's license, which may be transferred only
6 pursuant to Section 60-6B-12 NMSA 1978.

7 C. Beginning July 1, 2013, if the provisions of
8 Section 60-6A-18 NMSA 1978 indicate the availability for a new
9 license and there has been no local option district election to
10 limit the number of licenses that would otherwise prevent a new
11 license, a person may apply for and be issued, after submitting
12 an application prescribed by the director and meeting all the
13 requirements of the Liquor Control Act, a food service license
14 to permit the sale, service and consumption of alcoholic
15 beverages by the drink in a restaurant subject to the following
16 conditions:

17 (1) the person shall submit evidence to the
18 director that the person has a current valid food service
19 establishment permit;

20 (2) the person shall satisfy the director that
21 the primary source of revenue from the operation of the
22 restaurant will be derived from meals and not from the sale of
23 alcoholic beverages;

24 (3) the person may renew the license annually,
25 and the director shall condition renewal upon a requirement

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1 that no less than sixty percent of gross receipts from the
2 preceding twelve months' operation of the restaurant was
3 derived from the sale of meals;

4 (4) upon application for renewal, the person
5 shall submit an annual report to the director indicating the
6 annual gross receipts from the sale of meals and from the sale
7 of alcoholic beverages;

8 (5) except as provided in Section 60-3A-12
9 NMSA 1978, the license does not permit the sale of alcoholic
10 beverages, whether in unbroken packages or not, for consumption
11 off the licensed premises;

12 (6) the license shall not permit the sale,
13 service and consumption of alcoholic beverages after the time
14 that meal sales and service cease or at 11:00 p.m., whichever
15 time is earlier;

16 (7) if Sunday sales have been approved in the
17 local option district, the license shall permit, subject to the
18 provisions of Section 60-7A-1 NMSA 1978, the sale, service and
19 consumption of alcoholic beverages on Sundays until the time
20 that meal sales and service cease or at 11:00 p.m., whichever
21 time is earlier;

22 (8) the license shall not be transferable from
23 person to person or from one location to another, and whenever
24 a licensee ceases to operate a restaurant at the licensed
25 premises, the director shall cancel the license; and

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1 (9) except as otherwise specifically provided
2 for a food service license, a food service license is subject
3 to the Liquor Control Act in the same manner as a dispenser's
4 license.

5 D. Nothing in this section shall prevent a
6 dispenser, limited dispenser or food service licensee from
7 receiving other licenses pursuant to the Liquor Control Act;
8 provided that a food service license shall not be used to apply
9 for or receive a special dispenser's permit pursuant to Section
10 60-6A-12 NMSA 1978.

11 ~~[B.]~~ E. A dispenser's license ~~[when issued],~~
12 limited dispenser's license or food service license shall only
13 be used by the person to whom the license is issued and shall
14 only be used within the licensed premises, pursuant to
15 provisions of the Liquor Control Act."

16 **SECTION 6.** Section 60-6A-15 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 32, as amended) is amended to read:

18 "60-6A-15. LICENSE FEES.--Every application for the
19 issuance or renewal of the following licenses shall be
20 accompanied by a license fee in the following specified
21 amounts:

22 A. manufacturer's license as a distiller, except a
23 brandy manufacturer, three thousand dollars (\$3,000);

24 B. manufacturer's license as a brewer, three
25 thousand dollars (\$3,000);

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1 C. manufacturer's license as a rectifier, one
2 thousand fifty dollars (\$1,050);

3 D. wholesaler's license to sell all alcoholic
4 beverages for resale only, two thousand five hundred dollars
5 (\$2,500);

6 E. wholesaler's license to sell spirituous liquors
7 and wine for resale only, one thousand seven hundred fifty
8 dollars (\$1,750);

9 F. wholesaler's license to sell spirituous liquors
10 for resale only, one thousand five hundred dollars (\$1,500);

11 G. wholesaler's license to sell beer and wine for
12 resale only, one thousand five hundred dollars (\$1,500);

13 H. wholesaler's license to sell beer for resale
14 only, one thousand dollars (\$1,000);

15 I. wholesaler's license to sell wine for resale
16 only, seven hundred fifty dollars (\$750);

17 J. retailer's license, for renewal, one thousand
18 three hundred dollars (\$1,300);

19 K. limited retailer's license, for issuance, two
20 hundred fifty thousand dollars (\$250,000), and for renewal, one
21 thousand three hundred dollars (\$1,300);

22 [~~K~~] L. dispenser's license or limited dispenser's
23 license, for renewal, one thousand three hundred dollars
24 (\$1,300);

25 M. food service license, for issuance, seventy-five

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1 thousand dollars (\$75,000), and for renewal, one thousand three
2 hundred dollars (\$1,300);

3 [~~H-~~] N. canopy license, one thousand three hundred
4 dollars (\$1,300);

5 [~~M-~~] O. restaurant license, one thousand fifty
6 dollars (\$1,050);

7 [~~N-~~] P. club license, for clubs with more than two
8 hundred fifty members, one thousand two hundred fifty dollars
9 (\$1,250), and for clubs with two hundred fifty members or
10 fewer, two hundred fifty dollars (\$250);

11 [~~Q-~~] Q. wine bottler's license to sell to
12 wholesalers only, five hundred dollars (\$500);

13 [~~P-~~] R. public service license, one thousand two
14 hundred fifty dollars (\$1,250);

15 [~~Q-~~] S. nonresident licenses, for a total billing
16 to New Mexico wholesalers:

- 17 (1) in excess of:
- 18 \$3,000,000 annually \$10,500;
- 19 1,000,000 annually 5,250;
- 20 500,000 annually 3,750;
- 21 200,000 annually 2,700;
- 22 100,000 annually 1,800;
- 23 and
- 24 50,000 annually 900;
- 25 and

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1 (2) of \$50,000 or less \$300;

2 [R-] T. wine wholesaler's license, for persons with
3 sales of five thousand gallons of wine per year or less,
4 twenty-five dollars (\$25.00), and for persons with sales in
5 excess of five thousand gallons of wine per year, one hundred
6 dollars (\$100); and

7 [S-] U. beer bottler's license, two hundred dollars
8 (\$200)."

9 SECTION 7. Section 60-6A-18 NMSA 1978 (being Laws 1981,
10 Chapter 39, Section 35, as amended) is amended to read:

11 "60-6A-18. LIMITATION ON NUMBER OF LICENSES--EXCEPTIONS.--

12 A. The maximum number of licenses to be issued
13 under the provisions of Sections 60-6A-2 and 60-6A-3 NMSA 1978
14 [~~shall be as follows:~~

15 (1) ~~in incorporated municipalities, not more~~
16 ~~than one dispenser's or one retailer's license, including~~
17 ~~canopy licenses which are replaced by dispenser's licenses as~~
18 ~~provided in Section 60-6B-16 NMSA 1978, for each two thousand~~
19 ~~inhabitants or major fraction thereof; and~~

20 (2) ~~in unincorporated areas of each county,~~
21 ~~not more than one dispenser's or one retailer's license,~~
22 ~~including canopy licenses which are replaced by dispenser's~~
23 ~~licenses as provided in Section 60-6B-16 NMSA 1978, for each~~
24 ~~two thousand inhabitants or major fraction thereof, excluding~~
25 ~~the population of incorporated municipalities within the~~

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1 ~~county~~] shall be based on a quota of one retailer's,
2 dispenser's, limited retailer's or food service license for
3 each one thousand five hundred residents or major fraction
4 thereof, in each county, including incorporated areas, subject
5 to a local option district limitation set by election pursuant
6 to Section 60-5A-1 NMSA 1978.

7 B. A license proposed to be transferred pursuant to
8 Section 60-6B-12 NMSA 1978 shall not count toward the quota set
9 in this section but is subject to a local option district
10 limitation set by election pursuant to Section 60-5A-1 NMSA
11 1978.

12 C. The limited dispenser's license and the
13 retailer's license created pursuant to Subsection A of Section
14 60-6A-3 NMSA 1978 shall be counted together as one license for
15 the purposes of the quota pursuant to this section.

16 [~~B-~~] D. For the purpose of this section, the number
17 of [~~inhabitants of a local option district~~] residents of a
18 county shall be determined by annual population estimates
19 published by the economic development department.

20 [~~G-~~] E. Subsection A of this section shall not be
21 construed to prevent [~~any~~] a licensee holding a valid license
22 issued under the Liquor Control Act, or [~~his~~] the licensee's
23 transferee, from continuing the licensed business or from
24 renewing [~~his~~] the license, subject to compliance with the
25 Liquor Control Act and department [~~regulations~~] rules,

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1 notwithstanding that the continuance or renewal may result in
2 an excess over the maximum number of licenses permitted in
3 Subsection A of this section."

4 SECTION 8. Section 60-6B-12 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 113, as amended) is amended to read:

6 "60-6B-12. INTER-LOCAL OPTION DISTRICT TRANSFERS.--

7 A. ~~[All]~~ Dispenser's, limited dispenser's and
8 retailer's licenses originally issued before July 1, ~~[1981]~~
9 2013, except rural dispenser's and rural retailer's licenses
10 and canopy licenses that were replaced by dispenser's licenses
11 pursuant to Section 60-6B-16 NMSA 1978, may be transferred to
12 any location within the state without regard to the license
13 quota in Section 60-6A-18 NMSA 1978, except:

14 (1) class B counties having a population of
15 between ~~[fifty-six thousand and fifty-seven thousand according~~
16 ~~to the 1980]~~ seventy-one thousand and seventy-two thousand
17 according to the 2010 federal decennial census and the
18 municipalities located within those class B counties ~~[and any];~~

19 (2) a municipality or county that [prohibits]
20 is not a local option district;

21 (3) a local option district that has limited
22 the number of licenses pursuant to Section 60-5A-1 NMSA 1978 to
23 a number that excludes a transfer; or

24 (4) a local option district that prohibited by
25 election prior to July 1, 2013 the transfer of a license from

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1 another local option district [~~without regard to the~~
2 ~~limitations on the maximum number of licenses provided in~~
3 ~~Section 60-6A-18 NMSA 1978, not otherwise contrary to law,~~
4 ~~subject to the approval of transferring locations of such~~
5 ~~liquor licenses of the governing body for that location; and~~
6 ~~provided all~~].

7 B. The transfer shall be subject to the following
8 provisions:

9 (1) it is not contrary to law;

10 (2) the governing body of the receiving local
11 option district has approved the transfer;

12 (3) the requirements of the Liquor Control Act
13 and department [~~regulations~~] rules for the transfer of licenses
14 are fulfilled; and [~~provided further:~~

15 ~~(1) the transfer of location does not lower~~
16 ~~the number of dispenser's and retailer's licenses below that~~
17 ~~number allowed by law in the local option district from which a~~
18 ~~license will be transferred;~~

19 ~~(2) beginning in calendar year 1997, no more~~
20 ~~than ten dispenser's or retailer's licenses shall be~~
21 ~~transferred to any local option district in any calendar year;~~

22 ~~(3) the dispenser's or retailer's licenses~~
23 ~~transferred under this section shall count in the computation~~
24 ~~of the limitation of the maximum number of licenses that may be~~
25 ~~issued in the future in any local option district as provided~~

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1 ~~in Section 60-6A-18 NMSA 1978 for the purpose of determining~~
2 ~~whether additional licenses may be issued in the local option~~
3 ~~district under the provisions of Subsection E of Section~~
4 ~~60-6B-2 NMSA 1978; and]~~

5 (4) the dispenser's, limited dispenser's or
6 retailer's licenses shall be operated or leased by the person
7 who transfers the license to the local option district for at
8 least a period of one year from the date of the approval of the
9 transfer by the department.

10 ~~[B. Transfers of location of each liquor license~~
11 ~~pursuant to Subsection A of this section shall become effective~~
12 ~~upon approval of the local governing body, unless within one~~
13 ~~hundred twenty days after the effective date of the Liquor~~
14 ~~Control Act a petition requesting an election on the question~~
15 ~~of approval of statewide transfers of liquor licenses into that~~
16 ~~local option district is filed with the clerk of the local~~
17 ~~option district and the petition is signed by at least five~~
18 ~~percent of the number of registered voters of the district.~~
19 ~~The clerk of the district shall verify the petition signatures.~~
20 ~~If the petition is verified as containing the required number~~
21 ~~of signatures of registered voters, the governing body shall~~
22 ~~adopt a resolution calling an election on the question of~~
23 ~~approving or disapproving statewide transfers of liquor~~
24 ~~licenses into that district. Notice of such election shall be~~
25 ~~published as provided in Section 3-8-35 NMSA 1978, and the~~

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1 ~~election shall be held within sixty days after the date the~~
2 ~~petition is verified or it may be held in conjunction with a~~
3 ~~regular election of the governing body if such election occurs~~
4 ~~within sixty days after the date of verification. If a~~
5 ~~majority of the registered voters of the district voting in~~
6 ~~such election votes to approve statewide transfers of liquor~~
7 ~~licenses into the local option district, each license proposing~~
8 ~~to be transferred shall be subject to the approval of the~~
9 ~~governing body. If the voters of the district voting in the~~
10 ~~election vote against the approval, then all statewide~~
11 ~~transfers of liquor licenses pursuant to Subsection A of this~~
12 ~~section shall be prohibited in that district, unless a petition~~
13 ~~is filed requesting the question be again submitted to the~~
14 ~~voters as provided in this subsection. The question of~~
15 ~~approving or disapproving statewide transfers of liquor~~
16 ~~licenses into the local option district shall not be submitted~~
17 ~~again within two years from the date of the last election on~~
18 ~~the question.~~

19 ~~G. Any dispenser's license transferred pursuant to~~
20 ~~this section outside its local option district shall only~~
21 ~~entitle the licensee to sell, serve or permit the consumption~~
22 ~~of alcoholic beverages by the drink on the licensed premises.~~

23 ~~D.]~~ C. Rural dispenser's, rural retailer's and
24 rural club licenses issued under any former act may be
25 transferred to any location, subject to the restrictions as to

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1 location contained in the Liquor Control Act, within the
2 unincorporated area of the county in which they are currently
3 located; provided that they shall not be transferred to any
4 location within ten miles of another licensed premises; and
5 provided further that all requirements of the Liquor Control
6 Act and department ~~[regulations]~~ rules for the transfer of
7 licenses are fulfilled."

8 SECTION 9. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2013.