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HOUSE BILL 162

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

D. Wonda Johnson and Patricia A. Lundstrom and Eliseo Lee Alcon
and Harry Garcia

AN ACT

RELATING TO LIQUOR CONTROL; PROVIDING FOR CERTAIN LOCAL OPTION
DISTRICTS TO RESTRICT THE HOURS OF SALE OF ALCOHOLIC BEVERAGES
FOR CONSUMPTION OFF A LICENSED PREMISES.

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. Provided that nothing in this section shall
prohibit the consumption at any time of alcoholic beverages in
guest rooms of hotels, alcoholic beverages shall be sold,
served and consumed on licensed premises only during the
following hours and days:

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

2 (2) on Tuesdays through Saturdays from after
3 midnight of the previous day until 2:00 a.m., then from 7:00
4 a.m. until midnight, except as provided in Subsections [~~D and~~
5 F] E and G of this section; and

6 (3) on Sundays only after midnight of the
7 previous day until 2:00 a.m., except as provided in Subsections
8 [~~G and E] D and F of this section and Section 60-7A-2 NMSA
9 1978.~~

10 B. Except as provided in Subsection C of this
11 section, alcoholic beverages [~~shall~~] may be sold by a dispenser
12 or a retailer in unbroken packages, for consumption off the
13 licensed premises and not for resale, only on Mondays through
14 Saturdays from 7:00 a.m. until midnight, except as provided in
15 Subsections [~~D and F] E and G of this section.~~

16 C. The governing body of a local option district
17 that is a class B county with a population greater than seventy
18 thousand and less than seventy-six thousand according to the
19 most recent federal decennial census or that is a municipality
20 located within a class B county with a population greater than
21 seventy thousand and less than seventy-six thousand according
22 to the most recent federal decennial census may pass an
23 ordinance to place restrictions, in addition to those provided
24 in this section, on the hours during which a dispenser or
25 retailer may sell alcoholic beverages in unbroken packages for

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1 consumption off the licensed premises and not for resale. The
2 ordinance may restrict sales between 7:00 a.m. and 11:00 a.m.
3 and shall provide the hours between 7:00 a.m. and 11:00 a.m.,
4 if any, during which a dispenser or retailer may sell alcoholic
5 beverages in unbroken packages for consumption off the licensed
6 premises and not for resale.

7 ~~[G-]~~ D. A dispenser, restaurant licensee or club
8 may, upon payment of an additional fee of one hundred dollars
9 (\$100), obtain a permit to sell, serve or permit the
10 consumption of alcoholic beverages by the drink on the licensed
11 premises on Sundays, subject to approval obtained pursuant to
12 the process set forth in Subsection ~~[E]~~ F of this section.
13 Alcoholic beverages may be sold, served and consumed from 11:00
14 a.m. until midnight as set forth in the licensee's Sunday sales
15 permit, except as otherwise provided for a restaurant licensee
16 in Section 60-6A-4 NMSA 1978. The Sunday sales permit shall
17 expire on June 30 of each year and may be renewed from year to
18 year upon application for renewal and payment of the required
19 fee. The permit fee shall not be prorated. Sales made
20 pursuant to this subsection or Subsection ~~[G]~~ H of this section
21 shall be called "Sunday sales".

22 ~~[D-]~~ E. Retailers, dispensers, canopy licensees
23 that were replaced by dispenser's licensees pursuant to Section
24 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
25 governmental licensees or their lessees shall not sell, serve,

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1 deliver or allow the consumption of alcoholic beverages on the
2 licensed premises from 2:00 a.m. on Christmas day until 7:00
3 a.m. on the day after Christmas, except as permitted pursuant
4 to Subsection ~~[F]~~ G of this section.

5 ~~[E-]~~ F. Sunday sales pursuant to the provisions of
6 Subsection ~~[G]~~ D of this section are permitted in a local
7 option district that voted to permit them. If in that election
8 a majority of the voters in a local option district voted "no"
9 on the question "Shall Sunday sales of alcoholic beverages by
10 the drink for consumption on the licensed premises of licensees
11 be allowed in this local option district?", Sunday sales are
12 unlawful in that local option district upon certification of
13 the election returns unless the provisions of Subsection ~~[J]~~ K
14 of this section apply. The question shall not again be placed
15 on the ballot in that local option district until:

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

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

25 ~~[F-]~~ G. On and after July 1, 2002, dispensers,

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

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

19 ~~[G-]~~ H. Notwithstanding the provisions of
20 Subsection ~~[E]~~ F of this section, any Indian nation, tribe or
21 pueblo whose lands are wholly situated within the state that
22 has, by statute, ordinance or resolution, elected to permit the
23 sale, possession or consumption of alcoholic beverages on lands
24 within the territorial boundaries of the Indian nation, tribe
25 or pueblo may, by statute, ordinance or resolution of the

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1 governing body of the Indian nation, tribe or pueblo, permit
2 Sunday sales by the drink on the licensed premises of licensees
3 on lands within the territorial boundaries of the Indian
4 nation, tribe or pueblo; provided that a certified copy of such
5 enactment is filed with the office of the director and with the
6 secretary of state.

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

19 ~~[I.]~~ J. If a petition requesting the governing body
20 of a local option district to call an election on the question
21 of continuing to allow sales of alcoholic beverages in unbroken
22 packages for consumption off the licensed premises on Sundays
23 is filed with the clerk of the governing body and that petition
24 is signed by at least ten percent of the number of registered
25 voters of the local option district and the clerk of the

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

22 [~~J~~] K. Sunday sales of alcoholic beverages shall
23 be permitted at resorts and at horse racetracks statewide
24 pursuant to the provisions of Section 60-7A-2 NMSA 1978."

25 SECTION 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2017.

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