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**HOUSE BILL 56**

**43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998**

**INTRODUCED BY**

**MIMI STEWART**

**AN ACT**

**RELATING TO ALCOHOLIC BEVERAGES; 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;**

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1 (2) on other weekdays from after midnight of  
2 the previous day until 2:00 a.m., then from 7:00 a.m. until  
3 midnight, except as provided in Subsections D, E and H of this  
4 section; and

5 (3) on Sundays only after midnight of the  
6 previous day until 2:00 a.m., except as provided in  
7 Subsections C and F of this section; provided, however,  
8 nothing in this section shall prohibit the consumption at any  
9 time of alcoholic beverages in 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, E and H of  
15 this section.

16 C. Subject to the provisions of Subsections F and  
17 I 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 F 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 I of this  
4 section shall be called "Sunday sales".

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

13 E. Retailers, dispensers, canopy licensees that  
14 were replaced by dispenser's licensees pursuant to Section  
15 60-6B-16 NMSA 1978, restaurant licensees, club licensees and  
16 governmental licensees or [~~its~~] their lessees shall not sell,  
17 serve, deliver or allow the consumption of alcoholic beverages  
18 on the licensed premises from 2:00 a.m. on Christmas day until  
19 7:00 a.m. on the day after Christmas, except as permitted  
20 pursuant to Subsection H of this section.

21 F. At the 1984 general election, the secretary of  
22 state shall order placed on the ballot in each local option  
23 district the question "Shall Sunday sales of alcoholic  
24 beverages by the drink for consumption on the licensed  
25 premises of licensees be allowed in this local option

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1 district?". If the secretary of state determines a need, he  
2 may authorize the use of paper ballots for the purpose of the  
3 election provided for pursuant to this subsection. Until such  
4 election, Sunday sales shall be permitted on the same basis in  
5 any local option district as provided under any former act,  
6 and the election held at the first general election following  
7 the effective date of the Liquor Control Act shall have no  
8 effect on whether Sunday sales are permitted in any local  
9 option district. If the question is disapproved by a majority  
10 of those voting upon the question in the local option  
11 district, Sunday sales shall be unlawful in that local option  
12 district upon certification of the election returns, and the  
13 question shall not again be placed on the ballot in that local  
14 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 G. The local governing body of a local option  
25 district [~~in an eligible county shall~~] may:

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

6 (2) arrange for the election to be held  
7 [~~within sixty days after the date the resolution is adopted~~]  
8 in conjunction with the next regular election of the local  
9 governing body or the next statewide general election  
10 following adoption of the resolution; and

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

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

20 H. On and after July 1, 1989, dispensers, canopy  
21 licensees that were replaced by dispenser's licensees pursuant  
22 to Section 60-6B-16 NMSA 1978, restaurant licensees, club  
23 licensees and governmental licensees or lessees of these  
24 licensees may sell, serve or allow the consumption of beer and  
25 wine with meals on licensed premises from noon until 10:00

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

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1 Election Code. If a majority of the voters voting on the  
2 question votes against continuing the sale, service or  
3 consumption of beer and wine with meals on licensed premises  
4 from noon until 10:00 p.m. on Christmas day, then such sales  
5 and consumption shall be prohibited. If a majority of the  
6 voters voting on the question votes to allow continued sale,  
7 service and consumption of beer and wine with meals on  
8 licensed premises from noon until 10:00 p.m. on Christmas day,  
9 then such sales and consumption shall be allowed to continue.  
10 The question then shall not be submitted again to the voters  
11 within two years of the date of the last election on the  
12 question.

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

25 J. Subject to the provisions of Subsection K of

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

12 K. If a petition requesting the governing body of  
13 a local option district to call an election on the question of  
14 continuing to allow sales of alcoholic beverages in unbroken  
15 packages for consumption off the licensed premises on Sundays  
16 is filed with the clerk of the governing body and that  
17 petition is signed by at least ten percent of the number of  
18 registered voters of the local option district and the clerk  
19 of the governing body verifies the petition signatures, the  
20 governing body shall adopt a resolution calling an election on  
21 the question. The election shall be held within sixty days of  
22 the date the petition is verified, or it may be held in  
23 conjunction with a regular election of the governing body, if  
24 the regular election occurs within sixty days of the petition  
25 verification. The election shall be called, conducted,

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1 counted and canvassed substantially in the manner provided by  
2 law for general elections within a county or special municipal  
3 elections within a municipality. If a majority of the voters  
4 of the local option district voting in the election votes to  
5 allow the sale of alcoholic beverages in unbroken packages for  
6 consumption off the licensed premises, then those sales shall  
7 continue to be allowed. If a majority of the voters of the  
8 local option district voting in the election votes not to  
9 allow the Sunday package sales, then those Sunday package  
10 sales shall be prohibited commencing the first Sunday after  
11 the results of the election are certified. Following the  
12 election, the question of allowing the Sunday package sales  
13 shall not be submitted again to the voters within two years of  
14 the date of the last election on the question. "

15 Section 2. EFFECTIVE DATE. --The effective date of the  
16 provisions of this act is July 1, 1998.