

1 SENATE BILL 355

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

3 INTRODUCED BY

4 John C. Ryan

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9  
10 AN ACT

11 RELATING TO ALCOHOLIC BEVERAGES; ALLOWING A DISPENSER'S LICENSE  
12 TO CONTINUE THE PRIVILEGE OF PACKAGE SALES AFTER AN INTER-LOCAL  
13 OPTION TRANSFER; ALLOWING A DISPENSER'S LICENSE THAT LOST THE  
14 PRIVILEGE OF PACKAGE SALES TO REGAIN THE PRIVILEGE SUBJECT TO  
15 CERTAIN CONDITIONS.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 60-6B-12 NMSA 1978 (being Laws 1981,  
19 Chapter 39, Section 113, as amended) is amended to read:

20 "60-6B-12. INTER-LOCAL OPTION DISTRICT TRANSFERS.--

21 A. [~~All~~] Dispenser's and retailer's licenses  
22 originally issued before July 1, 1981, except rural dispenser's  
23 and rural retailer's licenses and canopy licenses that were  
24 replaced by dispenser's licenses pursuant to Section 60-6B-16  
25 NMSA 1978, may be transferred to any location within the state,

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1 except class B counties having a population of between [~~fifty-~~  
2 ~~six thousand and fifty-seven thousand according to the 1980]~~  
3 seventy-one thousand and seventy-two thousand according to the  
4 2010 federal decennial census, the municipalities located  
5 within those class B counties and any municipality or county  
6 that prohibits by election the transfer of a license from  
7 another local option district, without regard to the  
8 limitations on the maximum number of licenses provided in  
9 Section 60-6A-18 NMSA 1978, not otherwise contrary to law,  
10 subject to the approval of transferring locations of [~~such~~]  
11 those liquor licenses [~~of~~] by the governing body for that  
12 location; [~~and~~] provided [~~all~~] that the requirements of the  
13 Liquor Control Act and department regulations for the transfer  
14 of licenses are fulfilled; and provided further that:

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 ~~[F]~~ H of Section  
4 60-6B-2 NMSA 1978; and

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

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

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1 the 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 C. ~~[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 A dispenser whose dispenser's license was, prior to July 1,  
24 2013, the subject of an inter-local option district transfer  
25 and that lost its privilege to sell alcoholic beverages in

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1 unbroken packages for consumption and not for resale off the  
2 licensed premises may apply to regain that package privilege  
3 subject to the following conditions:

4 (1) the method and process for application  
5 shall be determined by the director, but shall be substantially  
6 the same as for an application for a new license;

7 (2) no more than twenty-five dispenser's  
8 licenses per year may regain the package privilege;

9 (3) the fee for the issuance of the package  
10 privilege is fifty thousand dollars (\$50,000);

11 (4) if the package privilege is regained and  
12 the licensed premises are in a local option district that has  
13 voted to approve Sunday package sales, the dispenser may  
14 request a permit for Sunday package sales pursuant to Section  
15 60-7A-1 NMSA 1978; and

16 (5) when it appears to the director that there  
17 will be more than twenty-five applications to regain the  
18 package privilege in a calendar year, the director shall  
19 provide a random selection method for the qualification,  
20 approval and issuance of the package privilege. The random  
21 selection method shall allow each applicant an equal  
22 opportunity to obtain an available package privilege. For the  
23 purposes of random selection, the director shall also set a  
24 reasonable deadline for filing an application. A person shall  
25 not file more than one application for each license that lost

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1 the package privilege and no more than three applications each  
2 calendar year.

3 D. After the deadline set in accordance with  
4 Subsection C of this section, no more than three applications  
5 per available package privilege shall be selected at random for  
6 priority of qualification and approval. Within thirty days  
7 after the random selection for the three priority positions for  
8 each package privilege, a hearing like that held on the  
9 application for a new license shall be held to determine the  
10 qualifications of the applicant having the highest priority for  
11 each available package privilege. If necessary, a hearing  
12 shall be held on each selected application by priority until a  
13 qualified applicant for each available package privilege is  
14 approved. Further random selections for priority positions  
15 shall also be held pursuant to this section as necessary.

16 ~~[D-]~~ E. Rural dispenser's, rural retailer's and  
17 rural club licenses issued under any former act may be  
18 transferred to any location, subject to the restrictions as to  
19 location contained in the Liquor Control Act, within the  
20 unincorporated area of the county in which they are currently  
21 located; provided that they shall not be transferred to any  
22 location within ten miles of another licensed premises; and  
23 provided further that all requirements of the Liquor Control  
24 Act and department regulations for the transfer of licenses are  
25 fulfilled."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.