

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 212

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

AN ACT

RELATING TO LIQUOR EXCISE TAXES; AUTHORIZING COUNTIES TO IMPOSE  
A LOCAL LIQUOR EXCISE TAX; LIMITING RATES OF LOCAL LIQUOR  
EXCISE TAXES; ELIMINATING AN ADMINISTRATIVE FEE; MAKING AN  
APPROPRIATION.

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

SECTION 1. A new section of the Tax Administration Act is  
enacted to read:

"~~[NEW MATERIAL]~~ TRANSFER OF REVENUES FROM LOCAL LIQUOR  
EXCISE TAXES.--A transfer pursuant to Section 7-1-6.1 NMSA 1978  
shall be made to each county for which the department is  
collecting a local liquor excise tax imposed by that county in  
an amount equal to the net receipts attributable to the local  
liquor excise tax imposed by that county."

SECTION 2. Section 7-24-9 NMSA 1978 (being Laws 1989,  
.192100.4

underscoring material = new  
[bracketed material] = delete

1 Chapter 326, Section 2) is amended to read:

2 "7-24-9. DEFINITIONS.--As used in the Local Liquor Excise  
3 Tax Act:

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

10 ~~[B. "county" means a class B county having a~~  
11 ~~population of more than fifty-six thousand but less than~~  
12 ~~seventy-five thousand, according to the most recent federal~~  
13 ~~decennial census or any subsequent decennial census, and having~~  
14 ~~a net taxable value for rate-setting purposes for the 1988 or~~  
15 ~~any subsequent property tax year of more than five hundred~~  
16 ~~million dollars (\$500,000,000) but less than seven hundred~~  
17 ~~million dollars (\$700,000,000);~~

18 ~~G.]~~ B. "department" means the taxation and revenue  
19 department, the secretary of taxation and revenue or any  
20 employee of the department exercising authority lawfully  
21 delegated to that employee by the secretary;

22 ~~[D.]~~ C. "governing body" means the board of county  
23 commissioners of a county or the county council of an  
24 incorporated county;

25 D. "microbrewer" means a person who is licensed as

1 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 to  
 2 produce beer in New Mexico and who produces less than five  
 3 thousand barrels of beer in a calendar year;

4 E. "person" means any individual, estate, trust,  
 5 receiver, cooperative association, club, corporation, company,  
 6 firm, partnership, joint venture, syndicate or other  
 7 association; "person" also means, to the extent permitted by  
 8 law, any federal, state or other governmental unit or  
 9 subdivision or agency, department or instrumentality thereof;

10 F. "price" means the total amount of money or the  
 11 reasonable value of other consideration or both paid for  
 12 alcoholic beverages, inclusive of the amount of any tax paid  
 13 pursuant to the Liquor Excise Tax Act; [~~and~~]

14 G. "retailer" means any person having a place of  
 15 business within the county who sells, offers for sale or  
 16 possesses for the purpose of selling alcoholic beverages within  
 17 the county; and

18 H. "small winegrower" means a winegrower who is  
 19 licensed pursuant to Section 60-6A-11 NMSA 1978 and who  
 20 produces fewer than one million two hundred thousand liters of  
 21 wine in a year."

22 SECTION 3. Section 7-24-10 NMSA 1978 (being Laws 1989,  
 23 Chapter 326, Section 3) is amended to read:

24 "7-24-10. AUTHORIZATION TO IMPOSE LOCAL LIQUOR EXCISE  
 25 TAX--RATE--USE OF PROCEEDS--ELECTION REQUIRED.--

.192100.4

1           ~~[A. The majority of the members elected to the~~  
2 ~~governing body may enact an ordinance imposing on any retailer~~  
3 ~~an excise tax on the price paid by the retailer for alcoholic~~  
4 ~~beverages purchased by the retailer upon which the tax imposed~~  
5 ~~by this section has not been paid. The tax may be imposed at a~~  
6 ~~rate not to exceed five percent, provided that any lower rate~~  
7 ~~shall be an even multiple of one percent. The tax imposed~~  
8 ~~under this section may be referred to as the "local liquor~~  
9 ~~excise tax". Any tax imposed under this section shall be for a~~  
10 ~~period of not more than three years from the effective date of~~  
11 ~~the ordinance imposing the tax.]~~

12           A. The majority of the members elected to the  
13 governing body of a county may enact an ordinance, to become  
14 effective only if approved by the voters in an election held  
15 pursuant to Subsection F of this section, that imposes on all  
16 wholesalers distributing alcoholic beverages to retailers doing  
17 business in that county a tax that may be referred to as a  
18 "local liquor excise tax". The local liquor excise tax shall  
19 be as follows:

20                   (1) on spirituous liquors, not more than  
21 ninety-nine cents (\$.99) per liter;

22                   (2) on beer, except as provided in Paragraph  
23 (5) of this subsection, not more than forty-one cents (\$.41)  
24 per gallon;

25                   (3) on wine, except as provided in Paragraphs

1 (4) and (6) of this subsection, not more than twenty-eight  
2 cents (\$.28) per liter;

3 (4) on fortified wine, not more than ninety-  
4 three cents (\$.93) per liter;

5 (5) on beer manufactured or produced by a  
6 microbrewer, provided that the beer is sold in this state and  
7 that proof is furnished to the county governing body and the  
8 department that the beer was manufactured or produced by a  
9 microbrewer, no local liquor excise tax shall be imposed;

10 (6) on cider, not more than twenty-five cents  
11  (\$.25) per gallon; and

12 (7) on wine manufactured or produced by a  
13 small winegrower, provided that the wine is sold in this state  
14 and that proof is furnished to the county governing body and  
15 the department that the wine was manufactured or produced by a  
16 small winegrower, no local liquor excise tax shall be imposed.

17 B. A tax imposed pursuant to the Local Liquor  
18 Excise Tax Act shall be imposed for a period of not more than  
19 four years from the effective date of the tax.

20 C. Within the final year that a local liquor excise  
21 tax is in effect pursuant to either Subsection A or B of this  
22 section, the governing body may enact an ordinance to extend  
23 the term of the tax; provided that the ordinance shall not  
24 extend the term for more than four years. The question of the  
25 tax extension shall be submitted to the voters of the county in

.192100.4

1 the same manner as required by Subsection F of this section to  
2 approve the original tax.

3           ~~[B.—The]~~ D. A governing body at the time of  
4 enacting an ordinance imposing ~~[the]~~ or extending a tax  
5 authorized in ~~[Subsection A of]~~ this section shall dedicate the  
6 revenue to fund ~~[educational programs and]~~ direct program  
7 services for the prevention and treatment of alcoholism and  
8 drug abuse within the county and for no other purpose. ~~[After~~  
9 ~~approval of the imposition of a local liquor excise tax by the~~  
10 ~~voters but before the effective date of the ordinance]~~ The  
11 governing body shall hold a public meeting for the purpose of  
12 inviting comment on and suggestions for the most appropriate  
13 programs on which to expend the revenue produced by the tax.  
14 The governing body shall invite representatives from the  
15 appropriate ~~[Indian]~~ tribes ~~[nations and pueblos]~~ located in  
16 that county to the meeting. If the governing body awards ~~[any]~~  
17 a contract using funds derived from the local liquor excise  
18 tax, it shall do so only ~~[through a selection process requiring~~  
19 ~~submission of sealed bids or proposals after public notice of~~  
20 ~~the opportunity to submit the sealed bids or proposals]~~ in  
21 accordance with the applicable procurement code.

22           ~~[G.—The governing body enacting an ordinance~~  
23 ~~imposing the local liquor excise tax shall submit the question~~  
24 ~~of imposing the tax to the qualified voters of the county at a~~  
25 ~~regular or special election.~~

1           ~~D. Only those voters who are registered within the~~  
2           ~~county shall be permitted to vote. The election shall be~~  
3           ~~called, conducted and canvassed in substantially the same~~  
4           ~~manner as provided by law for general elections.~~

5           ~~E. If at an election called pursuant to this~~  
6           ~~section a majority of the voters voting on the question vote in~~  
7           ~~the affirmative on the question, then the ordinance imposing~~  
8           ~~the local liquor excise tax shall be approved. If at such an~~  
9           ~~election a majority of the voters voting on the question fail~~  
10          ~~to approve the question, then the ordinance shall be~~  
11          ~~disapproved and the question required to be submitted by~~  
12          ~~Subsection B of this section shall not be submitted to the~~  
13          ~~voters for a period of at least one year from the date of the~~  
14          ~~election.~~

15          ~~F. Any ordinance enacted under the provisions of~~  
16          ~~this section which imposes a local liquor excise tax or changes~~  
17          ~~the rate of tax imposed shall include an effective date which~~  
18          ~~is the first day of any month which begins no earlier than~~  
19          ~~ninety days after the date of the election. A certified copy~~  
20          ~~of any ordinance imposing a local liquor excise tax shall be~~  
21          ~~mailed or personally delivered to the department within five~~  
22          ~~days after the ordinance is certified to have been approved by~~  
23          ~~the voters.~~

24          ~~G. Any ordinance repealing the imposition of a tax~~  
25          ~~under the provisions of this section shall contain an effective~~

.192100.4

1 ~~date which is the first day of any month beginning no earlier~~  
2 ~~than sixty days from the date the ordinance repealing the tax~~  
3 ~~is adopted by the governing body. A certified copy of any~~  
4 ~~ordinance repealing a local liquor excise tax shall be mailed~~  
5 ~~or personally delivered to the department within five days of~~  
6 ~~the date the ordinance is adopted.]~~

7 E. Two counties that share a municipality that  
8 extends across the counties' common boundary may enter into a  
9 joint powers agreement or other written agreement to share the  
10 revenue from a local liquor excise tax imposed within the  
11 shared municipality.

12 F. The ordinance imposing the tax shall not go into  
13 effect until after an election is held and a simple majority of  
14 the registered voters of the county voting on the question  
15 votes in favor of imposing the tax. The governing body shall  
16 adopt a resolution calling for an election within seventy-five  
17 days of the date that the ordinance is adopted on the question  
18 of imposing the tax. The question may be submitted to the  
19 voters and voted upon as a separate question at any general or  
20 special election called for that purpose by the governing body.  
21 The election upon the question shall be called, held, conducted  
22 and canvassed in substantially the same manner as may be  
23 provided by law for general elections.

24 G. If the question of imposing the tax fails, the  
25 governing body shall not again propose the tax for a period of



1 one year after the election.

2 H. An ordinance imposing a tax shall be effective  
 3 on July 1, or January 1, whichever date occurs first after the  
 4 expiration of at least three months from the date the adopted  
 5 ordinance is mailed or delivered to the department. The  
 6 ordinance shall include that effective date."

7 SECTION 4. Section 7-24-15 NMSA 1978 (being Laws 1989,  
 8 Chapter 326, Section 8) is amended to read:

9 "7-24-15. [~~ADMINISTRATIVE CHARGE~~] ADMINISTRATION.--The  
 10 department [~~may deduct an amount not to exceed five percent of~~  
 11 ~~the proceeds of a local liquor excise tax as a charge for the~~  
 12 ~~administrative costs of collection, which amount shall be~~  
 13 ~~retained by the department for use in administration of]~~ shall  
 14 collect the proceeds of the taxes imposed pursuant to the Local  
 15 Liquor Excise Tax Act and distribute the net receipts pursuant  
 16 to Section 7-1-6.1 NMSA 1978 to the county from which the local  
 17 liquor excise tax revenue was remitted."

18 SECTION 5. EFFECTIVE DATE.--The effective date of the  
 19 provisions of this act is July 1, 2013.