

## SENATE BILL NO. 317

INTRODUCED BY A. ELLIS

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING BREWERS OF BEER; REVISING THE TAXATION OF BEER TO A SLIDING SCALE BASED UPON THE NUMBER OF BARRELS OF BEER BREWED ANNUALLY BY THE BREWER; REVISING THE ANNUAL LICENSE RENEWAL FEE FOR CERTAIN BREWERS; AMENDING SECTIONS 16-1-406 AND 16-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 16-1-406, MCA, is amended to read:

13 **"16-1-406. Taxes on beer.** (1) (a) A tax of \$4.30 per barrel of 31 gallons is  
14 imposed on each barrel of beer sold in Montana by a wholesaler. A barrel of beer equals 31 gallons. The  
15 tax is based upon the total number of barrels of beer produced by a brewer in a year. A brewer who  
16 produces less than 20,000 barrels of beer a year is taxed on the following increments of production:

17 (i) up to 5,000 barrels, \$1.30;

18 (ii) 5,001 barrels to 10,000 barrels, \$2.30; and

19 (iii) 10,001 barrels to 20,000 barrels, \$3.30.

20 (b) The tax on beer sold for a brewer who produces over 20,000 barrels is \$4.30.

21 (2) The tax imposed pursuant to subsection (1) is due at the end of each month from the  
22 wholesaler upon beer sold by the wholesaler during that month. The department shall compute the tax due  
23 on beer sold in containers other than barrels or in barrels of more or less capacity than 31 gallons.

24 ~~(2)~~(3) Each quarter, in accordance with the provisions of 15-1-501, of the tax collected pursuant  
25 to subsection (1), an amount equal to:

26 (a) \$1 23.26% must be deposited in the state treasury to the credit of the department of public  
27 health and human services for the treatment, rehabilitation, and prevention of alcoholism;

28 (b) 50 cents 11.63% must be deposited in the state general fund; and

29 (c) \$2.80 65.11% must be deposited with the state treasurer to the credit of the incorporated  
30 cities and towns beer tax account in the state special revenue fund.

1           ~~(3)~~(4) (a) The money in the incorporated cities and towns beer tax account is statutorily  
 2 appropriated, as provided in 17-7-502, to the department, which shall, monthly, distribute this amount of  
 3 money to the incorporated cities and towns in the direct proportion that the population of each city and  
 4 town bears to the total population of all incorporated cities and towns as shown in the latest official federal  
 5 census as adjusted by the most recent population estimates published by the U.S. bureau of the census.  
 6 For cities and towns incorporated after the latest official federal census, the census must be determined  
 7 as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or  
 8 town. If a city or town disincorporates, it may not receive any funds under this section and the amount  
 9 previously distributed to the city or town must be distributed to the remaining incorporated cities and  
 10 towns. All funds received by cities and towns under this section must be expended for state purposes,  
 11 such as law enforcement, maintenance of the transportation system, and public health.

12           (b) The department may adjust population estimates only on the July 1 following the date of  
 13 publication of the estimates by the U.S. bureau of the census. The adjusted distribution formula must  
 14 remain in effect for the entire fiscal year."

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16           **Section 2.** Section 16-4-501, MCA, is amended to read:

17           **"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table  
 18 wine only, or both beer and table wine, under the provisions of this code, shall pay ~~an annual~~ a license fee.  
 19 Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

20           (a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered  
 21 for sale within the state, \$500;

22           (ii) for each storage depot, \$400;

23           (b) (i) each beer wholesaler, \$400; each table wine distributor, \$400;

24           (ii) for each subwarehouse, \$400;

25           (c) each beer retailer, \$200;

26           (d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer  
 27 license;

28           (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in  
 29 conjunction with beer, \$200;

30           (e) any unit of a nationally chartered veterans' organization, \$50.

1 (2) The permit fee under 16-4-301(1) is computed at the rate of \$10 a day for each day that beer  
2 and table wine are sold at those events lasting 2 or more days, but the fee may not exceed \$300 for a  
3 series of scheduled sporting events.

4 (3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for  
5 the sale of all alcoholic beverages.

6 (4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license  
7 fee in the sum of \$300.

8 (5) The annual license fee for a license to sell wine on the premises, when issued as an  
9 amendment to a beer-only license pursuant to 16-4-105, is \$200.

10 (6) The annual renewal fee for:

11 (a) a brewer producing 20,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; and

12 (b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license.

13 (7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

14 (a) except as provided in this section, for each license outside of incorporated cities and  
15 incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000,  
16 \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

17 (b) except as provided in this section, for each license in incorporated cities with a population of  
18 more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the  
19 nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a  
20 nationally chartered veterans' organization and \$500 for all other licensees;

21 (c) except as provided in this section, for each license in incorporated cities with a population of  
22 more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from  
23 the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit  
24 of a nationally chartered veterans' organization and \$650 for all other licensees;

25 (d) for each license in incorporated cities with a population of 10,000 or more or within a distance  
26 of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the  
27 nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800  
28 for all other licensees;

29 (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated  
30 towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest

1 boundary of the city or town; and where the premises of the applicant to be licensed are situated within  
2 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different  
3 populations, the license fee chargeable by the larger incorporated city or incorporated town applies and  
4 must be paid by the applicant. When the premises of the applicant to be licensed are situated within an  
5 incorporated town or incorporated city and any portion of the incorporated town or incorporated city is  
6 without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city  
7 applies and must be paid by the applicant.

8 (f) an applicant for the issuance of an original license to be located in areas described in  
9 subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that  
10 guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a  
11 one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000 may  
12 not apply to any transfer or renewal of a license issued prior to July 1, 1974. All licenses, however, are  
13 subject to the specified annual renewal fees.

14 (8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

15 (9) The annual fee for a special beer and table wine license for a nonprofit arts organization under  
16 16-4-303 is \$250.

17 (10) The license fees provided in this section are exclusive of and in addition to other license fees  
18 chargeable in Montana for the sale of alcoholic beverages.

19 (11) In addition to other license fees, the department of revenue may require a licensee to pay a  
20 late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the  
21 licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1  
22 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on  
23 September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

24 (12) All license and permit fees collected under this section must be deposited as provided in  
25 16-2-108."

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27 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2001.

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29 NEW SECTION. **Section 4. Applicability.** [This act] applies to beer sold by a wholesaler on or after  
30 July 1, 2001.

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