BUSINESS & LABOR
EXHIBIT NO. 1
DATE 1/8/09
BILL NO. [redacted]

# *Alcoholic Beverage Control in Montana*

## *Liquor Control Division Mission*

To provide effective and efficient administration of the Montana alcoholic beverage code with an emphasis in customer service and public safety by applying uniform and fair regulations while ensuring an orderly system for the convenient distribution and responsible consumption of alcoholic beverages.

January 8, 2009

# Montana is a Control State

**16-1-101, Montana Code Annotated**

- It is the policy of the State of Montana, through the Montana Department of Revenue, to effectuate and ensure the entire control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state.
- It is an exercise of the police power of the state, in and for the protection of the welfare, health, peace, morals, and safety of the people of the state, and of the state's power under the 21st amendment to the United States Constitution to control the transportation and importation of alcoholic beverages into the state.

Montana and nineteen other jurisdictions are known as "control jurisdictions."

- These jurisdictions control the sale of distilled spirits and, in some cases, beer and wine through government agencies at the wholesale level.

As a control state, Montana believes that moderation can best be achieved by neither promoting nor encouraging the consumption of alcohol but, instead by controlling it.

- The purpose of control is to make liquor available to those adults who choose to drink responsibly, not to promote the sale of liquor.

By participating in the marketplace, we are able to serve our citizens with a broader and more flexible range of policy options to promote moderation in the consumption of alcoholic beverages and reduce alcohol abuse.

- Another value of the control distribution system is that it operates solely on the revenue derived from the sale of alcoholic beverages in its jurisdiction. No property, state, or other local taxes are used to support control distribution system operations.

**Control Jurisdictions**

Alabama
Idaho
Iowa
Maine
Montgomery County, Maryland
Michigan
Mississippi
***Montana***
North Carolina
New Hampshire
Ohio
Oregon
Pennsylvania
Utah
Vermont
Virginia
Washington
West Virginia
Worcester County, Maryland
Wyoming

## Control Benefits to Montanans

**Promote moderation**

- Control systems promote moderation in consumption. Annual statistical data clearly shows that per capita consumption of distilled spirits is approximately 16% lower in control states than in open states.

**Support of alcohol programs**

- Revenues from liquor taxes are distributed to the credit of the Department of Public Health and Human Services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

**Improve overall safety of communities through education, regulation and enforcement**

- The control state system continues to provide a regulatory environment that is better able to deter the ever-present risks and costs to the individual and the community of alcohol abuse.
- At one level, the uniform enforcement of applicable laws is made far more effective in a control state, where there are ordinarily fewer sales outlets and more importantly, where the economic incentive to violate those laws is greatly reduced.
- At another level, the control system itself serves both as a visible symbol of the public commitment to moderation and as a vehicle for the promotion of alcohol education and awareness programs to support that commitment.

**Major source of revenue**

- Liquor sales provide a source of revenue to the State of Montana. The state uses these revenues to help fund state-government operations and to support several government programs.

## Three Tier System

In Montana, liquor control is accomplished using a three-tier system.

*Distillery*

▼

*State Liquor Warehouse*

▼

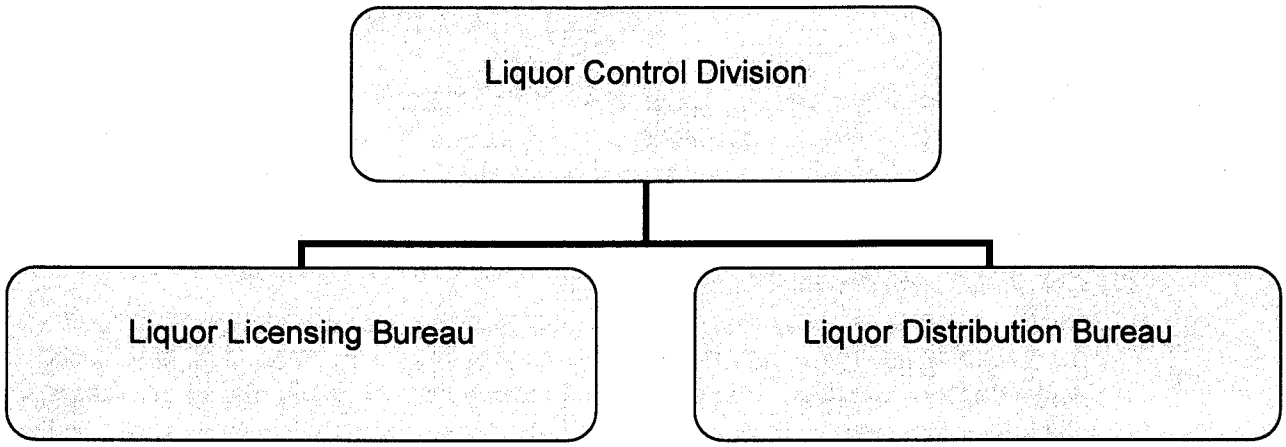
*State Agency Store*

▼

*Consumer*

## Department Structure for Liquor Control

The Liquor Control Division is composed of two bureaus, Liquor Licensing and Liquor Distribution.



# Liquor Licensing

The Liquor Licensing Bureau is responsible to protect the welfare and safety of the public by regulating liquor licensing laws in a uniform and fair manner. The bureau is generally responsible for overseeing and enforcing compliance with the state's liquor laws, as provided for in the Montana Alcoholic Beverage Code (Title 16, MCA).

Typical duties and responsibilities include:

- Verifying through diligent and detailed examinations of financial and other documents the suitability of liquor licenses and other applicants to ensure all applicants meet the qualifications required to sell, manufacture or distribute alcoholic beverages;
- Ensuring compliance with Montana's liquor laws by actively monitoring licensee behavior and premises activities, and issuing violation notices as needed; and
- Providing expert testimony in cases of foreclosure, revocation and other regulatory proceedings.

## Alcohol Beverage License Types

On-Premises Retail
Off-Premises Retail
Wholesale/Distributor and Manufacturer
Wine Distributor/Wine Importer
Beer Wholesaler/Beer Importer
Connoisseur's License Beer/Wine

### On-Premises Retail Licenses

**Main On-Premises License Types**

- City All-Beverages Licenses (Quota)*
- County All-Beverages Licenses (Quota)*
- City Beer Licenses (Quota)* (pre 1997)
- County Beer Licenses (No Quota)*
- Restaurant Beer/Wine Licenses (Quota)
- Fraternal or Veterans Club Licenses – All-beverages/beer (No Quota)*

**Additional On-Premises License Types**

- Golf Course Beer and Wine License (No Quota)
- Resort Retail All-beverages Licenses (No Quota)*
- Airport All-beverages Licenses (No Quota)*
- Passenger Carrier Licenses (No Quota)
- Special Beer & Wine License Nonprofit Arts Organizations (No Quota)

- Seasonal Beer & Wine License Yellowstone Airport (Specific Purpose)
- MT Heritage Retail Alcoholic Beverage Licenses (Specific Purpose)
- Special Permits (Available to Certain Non-profit Entities, University System & certain Sports Leagues – Limited by Type of Entity)

**Gaming is available with these licenses*

**Off-Premises Retail Licenses**

**Types**

- Beer License (No Quota)
- Wine License (No Quota)
- Beer/Wine License (No Quota)
- Agency Liquor Stores - Not a license, but contractual franchise agreement. Sell distilled spirits, fortified wines and table wine (Quota)

**Wholesale/Distributor Licenses**

**Types**

- Beer Wholesaler License
- Wine Distributor License
- Beer/Wine Wholesaler/Distributor License

**Manufacturer Licenses**

**Types**

- Small Brewery License
  - Must produce less than 10,000 barrels of beer a year
  - Also allows brewery to act as a wholesaler
  - Also allow brewery to act a retailer

- Brewery License

- Domestic Winery License
  - Must produce less than 25,000 gallons of wine a year
  - Also allows winery to act as a wholesaler
  - Also allow winery to act a retailer

- Winery License/Registration

- Distilled Spirits License/Domestic Distillery License

## License Fees

**On-Premises Retail**

| | |
|---|---|
| ▪ County license | $400 |
| ▪ City less than 2,000 inhabitants | $400 |
| ▪ City more than 2,000 but less than 5,000 | $500 |
| ▪ City more than 5,000 but less than 10,000 | $650 |
| ▪ City more than 10,000 inhabitants | $800 |
| ▪ One-time fee for a new city license with more than 10,000 inhabitants | $20,000 |
| ▪ Beer Licenses | $200 |
| - Wine Amendment | $200 |
| ▪ Restaurant Beer/Wine License | $400 |
| Plus one-time fees, as follows: | |
| - Seating of 60 persons or less | $5,000 |
| - Seating of 61 -100 persons | $10,000 |
| - Seating of 101 persons or more | $20,000 |
| ▪ Catering Endorsement – all-beverages license | $250 |
| ▪ Catering Endorsement – beer license | $200 |
| ▪ Fraternal License | |
| Same as all-beverages or beer licenses | |
| ▪ Veterans Club License | |
| - County license | $250 |
| - City less than 2,000 inhabitants | $250 |
| - City more than 2,000 but less than 5,000 | $350 |
| - City more than 5,000 but less than 10,000 | $500 |
| - City more than 10,000 | $650 |
| ▪ Golf Course License | |
| - Beer/wine | $400 |
| - One-time fee for non-municipal courses | $20,000 |
| ▪ Resort All-beverages License | $2,000 |
| ▪ Airport All-beverages License | $800 |
| ▪ Passenger Carrier License | $300 |
| ▪ Special Beer/Wine – non-profit arts | $250 |

- Seasonal Beer/Wine – Yellowstone Airport $400

- Montana Heritage License
  - Same fee structure as all-beverages and beer licenses

**Off-Premises Retail**

- Beer $200
- Wine $200

**Special Permits**

- Most Special Permits - $10/day for each day of the event
- Sports Leagues -- $1,000/year for the specified season of play

**Wholesaler/Distributor License**

- Beer Wholesaler $400
- Wine Distributor $400
- Sub-warehouse $400

**Manufacturer License**

- Brewery $500
- Small Brewery $200
- Winery $400
  - License Renewals $200
- Foreign Winery Registration
  - 60 Cases or Less Imported $ 0
  - 61 to 500 Cases Imported $25
  - 501 to 1,000 Cases Imported $50
  - 1,001 to 1,500 Cases Imported $100
  - 1,501 to 2,000 Cases Imported $200
  - More than 2,001Cases Imported $400
- Distiller's License $600

## Quota System

- Quota system has been in place since 1947
- There are two types of quota areas: city and county
- Quota system for incorporated towns and counties

  <u>All-beverage licenses</u>
  - Incorporated towns - based on population within city limits
  - Counties – based on population within county limits

  <u>Beer licenses</u>
  - Incorporated cities – based upon population within the city limits
  - Counties – no limit
- New beer licenses issued after October 1, 1997 may not be used for premises where gambling is conducted.

City Quota Area

**All-Beverage License Quota Amounts**

- Population 500 or less = 2 licenses
- Population 500 - 3,000 = 3 licenses for first 1,000 inhabitants plus 1 for each additional 1,000
- Population 3,000 or more = 5 licenses for first 3,000 inhabitants plus 1 for each additional 1,500

**Beer License Quota Amounts**

- Population 500 or less = 1 license
- Population 500 - 2,000 = 1 license for every 500 inhabitants
- Population 2,000 or more = 4 licenses for first 2,000 inhabitants, 2 licenses for the next 2,000 and 1 additional license for every additional 2,000

**Restaurant Beer and Wine (RBW) License Quota Amounts**

*Population 20,000* – equal to 80% of beer quota
*Population 20,001–60,000* – equal to 50% of beer quota
*Population 60,001* – equal to 40% of the beer quota

- The City Licenses can be located within the corporate city limit and within a distance of 5 miles from the corporate limits.

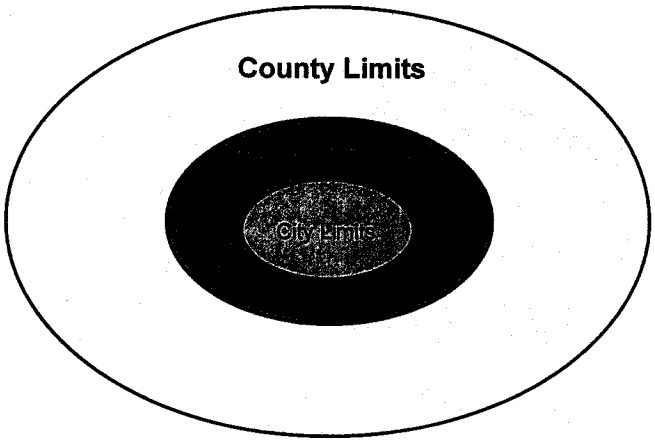
County Quota Area

**All-Beverage License Quota Amounts**

All populations: 1 license for 750 inhabitants of the county after excluding the population of incorporated cities and incorporated towns in the county. County All-Beverage Licenses can be located anywhere in the county except within the boundaries of the incorporated cities and town and within a 5 miles radius.

**Beer License Quota Amounts**

None.



## Quota Licenses Issued (2009)

**On-Premises All-Beverages Licenses**

| | |
|---|---|
| ▪ Total Licenses Issued | 1,442 |
| ▪ Total Quota | 1,153 |

**On-Premises Beer Licenses**

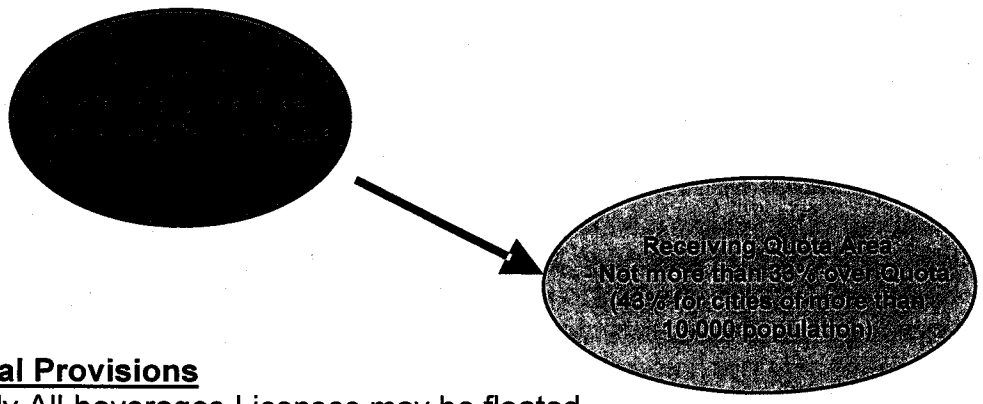
| | |
|---|---|
| ▪ Total Licenses Issued | 379 |
| ▪ Total Quota | 466 |

**Restaurant Beer/Wine Licenses**

| | |
|---|---|
| ▪ Total Licenses Issued | 192 |
| ▪ Total Quota | 475 |

*Source: December 30, 2009 Quota Sheet*

## Floating Licenses Between Quota Areas [16-4-204, MCA]




**General Provisions**

- Only All-beverages Licenses may be floated
- Must meet Public Convenience & Necessity
- Floated licenses may not be transferred to another person for 5 years
- Floated licenses are not eligible to be floated again

**Lottery All-Beverage Floater Licenses**

- Liquor statutes provide a mechanism for all-beverage licenses to float from an existing location that is technically over quota to a location that is technically under quota.
- As population fluctuates, the number of quota licenses is adjusted.
- Every year, we use the estimated census to determine if there are areas floater licenses are available. This year based on the increase in population 5 all-beverage" floaters" were available; 2 in Billings and 3 Bozeman. If more applicants apply then number of licenses available, the lottery rules come into effect.

**New requirements under HB633, 2007 legislative session**

- The new changes from legislation establish a set of requirements associated with "lottery" floater liquor licensee applications.
- Applicants cannot own an existing all-beverage license at the time of application,
- Must provide a letter of credit of $100,000,
- Can apply for only one lottery a year and,
- The successful applicant -- must open the business within 12 months of the lottery.
- Plus the gambling privilege is removed from the license.

**On-Premises License Ownership Requirements**

**Individual Applicants**

- Does not possess an ownership interest in more than one All-Beverages License or in an Agency Liquor Store.
- Applicant or applicant's immediate family is without financing from or affiliated to a manufacturer, importer, bottler or distributor of alcoholic beverages.
- Applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments.
- Applicant is current on Montana taxes.
- Applicant is not under 19 years of age.

**Business Entity Applicants**

- Any individual with financial ownership of 10% or more must meet the requirements of an individual applicant.
- Any individual who has control over the operation of the license must meet the requirements of an individual applicant.
- Each person who shares in the profits or losses meets the requirements of an individual applicant (Does not apply to owners of less than 10% of the stock).
- Business is authorized to do business in Montana and current in Montana taxes.
- The applicant provision does not apply to a Passenger Carrier License.

**Off-Premises License Ownership Requirements**

**Individual Applicants**

- Does not possess an ownership interest in an Agency Liquor Store
- Applicant or applicant's immediate family is without financing from or affiliation to a manufacturer, importer, bottler or distributor of alcoholic beverages.
- Applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored.
- Applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments.
- Current on Montana taxes.
- Applicant is not under 19 years of age.

**Business Entity Applicants**

- Any individual with financial ownership of 10% or more must meet the requirements of an individual applicant .
- Any individual who has control over the operation of the license must meet the requirements of an individual applicant.
- Each person who shares in the profits or losses meets the requirements of an individual applicant (Does not apply to owners of less than 10% of the stock).
- Corporation is authorized to do business in Montana and current on Montana taxes.

**Manufacturer, Importing or Wholesaler / Distributor License Requirements**
**Individual Applicants**

- Does not possess an ownership interest in any establishment licensed for retail sales, wholesale, and/or manufacture of alcoholic beverages.
- Does not possess an ownership interest in an Agency Liquor Store.
- Applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored.
- Applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments.
- Applicant is not under 19 years of age and is current with all Montana taxes.

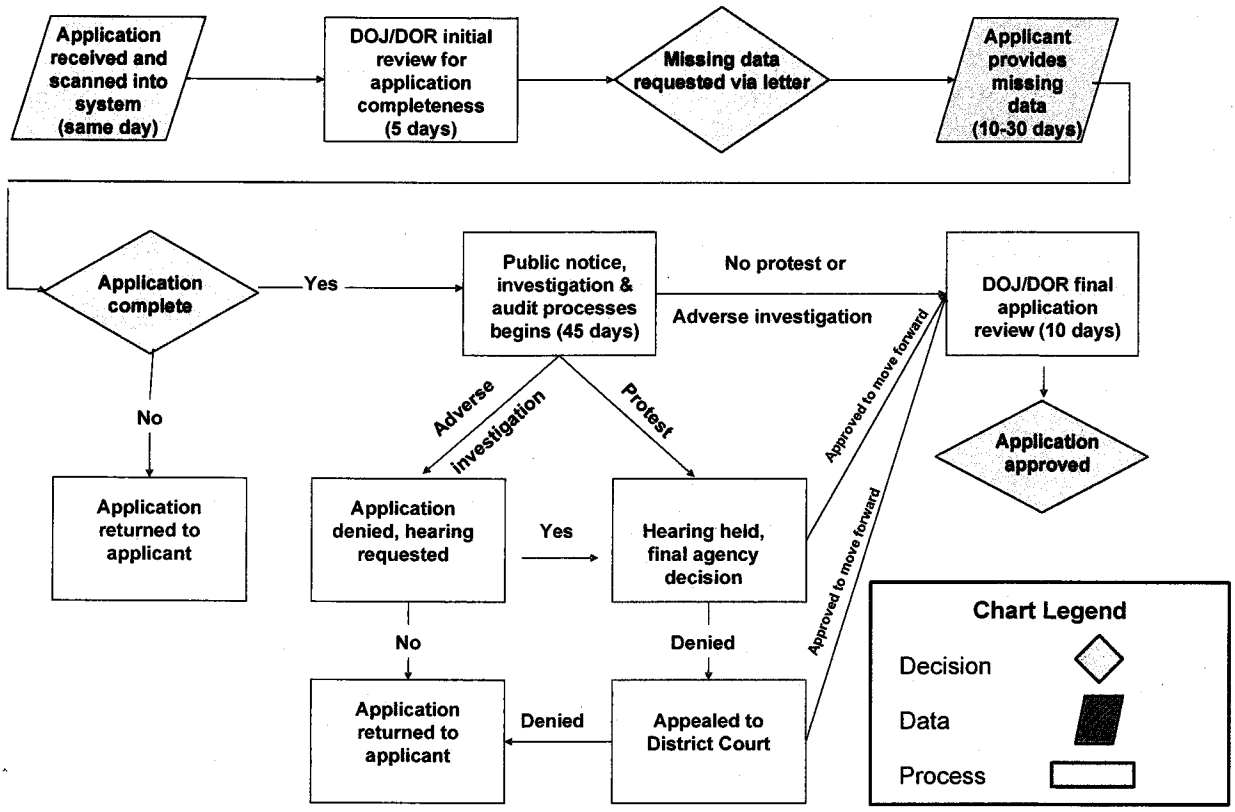
**Business Entity Applicants**

- Any individual with financial ownership of 10% or more must meet the requirements of an individual applicant.
- Any individual who has control over the operation of the license must meet the requirements of an individual applicant.
- Each person who shares in the profits or losses meets the requirements of an individual applicant (Does not apply to owners of less than 10% of the stock).
- Business is authorized to do business in Montana and current on Montana taxes.

## Joint Process with Department of Justice - Gambling

- The Department of Revenue and the Department of Justice have a partnership between gambling and liquor licensing to streamline the process.
- Joint application process
- The Department of Justice provides investigation and auditing services with a Memorandum of Understanding.

# Licensing Process Flow Chart




## Licensing Application Processing Statistics

**FY2008 (July 1, 2007 to June 30, 2008)**

- Total number on-premises applications approved 241
  *Includes transfers of licenses, new licenses, transfer of locations, etc.*
- Average number of days to approve 126
- Total number all types of applications approved 417
  *Includes on-premises, off-premises, distributors, manufacturers, etc.*
- Average number of days – all applications 110
- Total number of special permits issued 413
- Total number of renewals 4,601

## Protested Applications

### Public Convenience and Necessity Protests

- Only for original licenses and transfers of location
- Must receive a sufficient number of protests
  - Protests must equal 25% of the number of quota all-beverages licenses in the area located but not less than 2 protests.
  - Only applies to either on-premises beer or all-beverages licenses
- If requisite number of protests are received the hearing will be held in the county where the proposed premises are located

### Requirements

- Evidence indicates that the issuance of an original license or transfer of location will "materially promote the public's ability to engage in the licensed activity."
- The issuance will materially promote the public's ability to engage in the licensed activity if:
  - The applicant's history and experience demonstrate the capacity to operate the proposed license in a lawful manner;
  - The application for the premises of the proposed location is consistent with the public's demand or probable demand for the licensed activity that presently exists or is reasonably expected to exist within the next 5 years;
  - The application for the premises at the proposed location contributes to the public's ability to participate in the licensed activity; or
  - The application for the premises at the proposed location is consistent with adopted or pending planning, annexation, and zoning ordinances of local governments that confer or will confer jurisdiction over business and developments such as the proposed license

### 16-4-405, MCA

- If at least one protest is received but not the number of protests required for Public Convenience and Necessity, then a §16-4-405 hearing will be held
- A license may not be issued if the department finds from a hearing that:
  - The welfare of the people residing or of retail licenses located in the vicinity of the premises for which the license is desired will be adversely and seriously affected;
  - The applicant or the proposed premises for licensing fail to meet the eligibility or suitability criteria;
  - A possible reason for denial listed in a conditional approval letter has been verified; or
  - The purposes of Montana Beverage Code will not be carried out by the issuance of the license

## Alcohol Code Violations

- Upon a written verified complaint of a person, the Department of Revenue will request the Department of Justice to investigate a complaint.
- Upon reviewing the Department of Justice's investigation report or an admission from a licensee or receiving a local law enforcement agency's investigation report, the Department of Revenue may at its discretion take one or more of the following actions:
  - Reprimand the licensee
  - Proceed to revoke the license of the licensee
  - Suspend the license for a period of not more than 3 months
  - Refuse to grant a renewal of the license after its expiration, or
  - Impose a civil penalty not to exceed $1,500
- All actions taken by the Department of Revenue are subject to the opportunity for a hearing under the Montana Administrative Procedures Act

The most common Alcohol Beverage Code violations are:

- Sale to a minor
- Open after hours
- Serving after hours
- Undisclosed ownership interest
- Alteration of premises without prior approval
- No management agreement
- Non-use without prior approval

## License Revenue

### Consists of Licensing Fees and Violation Revenue

| | |
|---|---|
| FY2002 | $2,225,504 |
| FY2003 | $1,857,975 |
| FY2004 | $2,062,646 |
| FY2005 | $1,768,806 |
| FY2006 | $2,091,179 |
| FY2007 | $1,836,286 |
| FY2008 | $3,155,184* |

**Increase mainly due to issuance of New Restaurant Beer and Wine licenses based on 2007 legislation plus timing of collections renewal revenue in 2007 was extremely low.*

**Miscellaneous Provisions**

- Minimum Price Requirements – Distilled spirits may not be sold below the minimum posted price for a product
- Retail Sale Hours – Alcoholic beverages may not be sold between the hours of 2:00 a.m. and 8:00 a.m.
- Proximity to Churches and Schools – No retail license may be issued whose premises are within 600 feet of a church or school
- Purchase of Product by Retailers – All retailers must purchase product from either an Agency Liquor Store, a Licensed Wholesaler/Distributor, Licensed Winery or Brewery
- Connoisseur's License – Residents may purchase a connoisseur's license that allows them to purchase limited amounts of beer and/or wine for direct shipment to their residence. The fees are $50 for an initial wine connoisseur's license ($25 annual renewal fee) and $50 for an initial beer connoisseur's license ($25 annual renewal fee)

## Taxation of Alcoholic Beverages

**Distilled Spirits (Liquor)**

- Liquor Excise Tax
  - 16% of the retail selling price on products sold by companies producing more 200,000 or more proof gallons of liquor nationwide
  - 13.8% of the retail selling price on products sold by companies producing less than 200,000 proof gallons of liquor nationwide

- Liquor License Tax
  - 10% of the retail selling price on products sold by companies producing 200,000 or more proof gallons of liquor nationwide
  - 8.6% of the retail selling price on products sold by companies producing less than 200,000 proof gallons of liquor nationwide
- Revenue per wine gallon of liquor is $15.82 (18th highest in U.S. *)

**Beer**

- Based upon barrels of beer produced annually (barrel = 31 gallons)
  - Up to 5,000 barrels $1.30/barrel
  - 5,001 to 10,000 barrels $2.30/barrel
  - 10,001to 20,000 barrels $3.30/barrel
  - Over 20,000 barrels $4.30/barrel
- Revenue per wine gallon of beer is $0.17 (50th highest in U.S.*)

**Wine**

- 27 cents per liter of wine
- 3.7 cents per liter of hard cider
- Revenue per wine gallon of wine is $1.45 (43rd highest in U.S.*)

## Tax Revenue

### Distilled Spirits (Liquor)

**Liquor Excise Tax**

| | |
|---|---|
| FY2003 | $ 8,395,319 |
| FY2004 | $ 8,992,427 |
| FY2005 | $ 9,609,132 |
| FY2006 | $10,651,853 |
| FY2007 | $11,716,614 |
| FY2008 | $12,512,799 |

**Liquor License Tax**

| | |
|---|---|
| FY2003 | $5,248,155 |
| FY2004 | $5,621,399 |
| FY2005 | $6,007,218 |
| FY2006 | $6,658,036 |
| FY2007 | $7,322,884 |
| FY2008 | $7,820,502 |

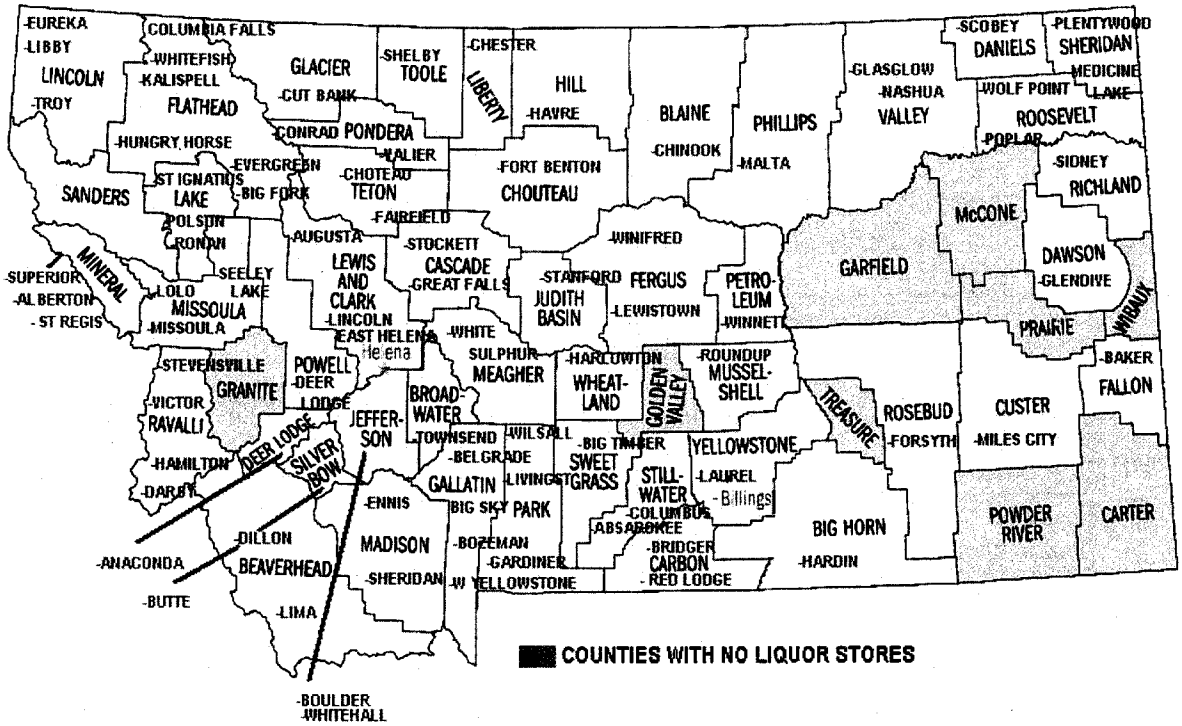
# Liquor Distribution

The Liquor Distribution Bureau is responsible to efficiently maintain a regulated channel of distribution with an emphasis on customer service by fulfilling the public demand of distilled spirits and fortified wine through Agency Liquor Stores.

The bureau is generally responsible for overseeing and managing the effective receipt and distribution of alcoholic beverages in the state. General duties and responsibilities include:

- overseeing all operations of the state liquor warehouse to include ordering, maintaining and monitoring liquor warehouse inventories in a manner that balances state interests with liquor distribution outlet customers;
- establishing and posting statutorily-defined prices for all liquor products distributed through the liquor warehouse; and
- establishing, maintaining and monitoring relationships, compliance issues and state contracts with 95 separate agency liquor stores.

**Montana Cities with Liquor Stores**



## Agency Liquor Stores

### Commissions and Discounts

- The agency liquor stores have 3 different commissions and discounts.
  1. Commission Rate
  2. Sales Volume Rate
  3. Weighted Average Discount

### Commission Rate

- 10% for communities in population 3,000 or less
- Established by competitive bidding in communities with 3,000 or more in population
- Can be adjusted every 3 years based on 2 methods:
  - Current commission is less then the average % being paid to stores with similar sales volume (Standard Bell Curve is used)
  - If agent can demonstrate cost beyond the agents control

### Sales Volume Rate *(HB 348 from the 2001 legislative session)*

- The % rate is based upon annual dollar volume of sales in the previous fiscal year
  - A volume of sales of $500,000 or more – 0.875%
  - A volume of sales less then $500,000 – 1.5%
  - Rates are adjusted on an annual basis based on sales volume.

### Weighted Average Discount

- Intended to compensate agency stores for the 8% full case lot discounts required to provide to all-beverage licensees.
- Determined by the each store's ratio of the dollar value of discounts given by the store's gross sales based on fiscal year 1994 sales.

## Liquor Distribution Revenues and Distributions

The Liquor Control Division distributed $25.4 million to the State General Fund and $5.1 million to the State Special Revenue Fund in fiscal year 2008.

| | FY2004 | FY2005 | FY2006 | FY2007 | FY2008 |
|---|---|---|---|---|---|
| Gross Liquor Sales | $70,827,539 | $75,686,673 | $83,916,488 | $92,301,388 | $98,594,652 |
| Net Profits Transferred | $ 6,500,000 | $ 6,650,000 | $ 7,450,000 | $ 8,200,000 | $ 8,775,000 |
| Taxes Transferred | $14,613,826 | $15,616,350 | $17,309,889 | $19,039,498 | $20,333,300 |

### Types of Revenue

Liquor wholesale operations generate two types of revenue: taxes and profits.

**Taxes**
Taxes are included in the sale price of each product. The tax is collected when the product is sold from the warehouse and payment is made from the agency stores. The tax is then transferred to either the General Fund or State Special Revenue Fund. The taxes are washed through Liquor Enterprise Fund.

| | FY2004 | FY2005 | FY2006 | FY2007 | FY2008 |
|---|---|---|---|---|---|
| Gross Sales | $70,800,000 | $75,700,000 | $83,900,000 | $92,300,000 | $98,600,000 |
| Dollar Mark – up (40%) | $16,000,000 | $17,100,000 | $18,900,000 | $20,900,000 | $22,300,000 |
| Agents Total Commissions and Discounts | $8,200,000 | $9,200,000 | $10,100,000 | $11,100,000 | $12,100,000 |
| Operational Expenses | $1,500,000 | $1,600,000 | $1,500,000 | $1,600,000 | $1,600,000 |
| Net Profits | $6,300,000 | $6,300,000 | $7,300,000 | $8,200,000 | $8,600,000 |

**Profits**
A 40% mark-up is included in the sale price of each product. The mark-up in essence pays for the liquor distribution warehouse operations and the commission rates and discounts provided to the agency liquor stores. The remaining profits are then transferred to the general fund.

## Agency Liquor Store Operations

**16-2-101, MCA**

- Agency Liquor Stores must purchase all alcoholic beverages except for beer and table wine from the state liquor dispensary.
- Agency Liquor Stores may sell distilled spirits, fortified wine and table wine. Table wine may be purchased from a distributor without an additional license.
- Agency Liquor Stores must be open for the sale of alcoholic beverages for a minimum of 6 hours per day between 8 a.m. and 2 a.m.
- Agency stores must be closed Sundays, Mondays and legal holidays. They may be open on Mondays that are not legal holidays, if 51% of the all-beverage licensees in the community sign a petition to allow.
- Agency Franchise Agreements are effective for a 10-year period and must be renewed at the existing commission rate for additional 10-year periods if the requirements of the agency franchise agreement have been satisfactorily performed.

- Agency Liquor Stores receive three different types of reductions to their merchandise purchased through the state warehouse
  - Sales Volume discount
  - Weighted Average discount
  - Commission Rate discount
- The Agency Liquor Store is required to liquor licensees at the state posted price for bottle purchases and at a reduction of 8% discount from posted price for full case purchases of regular listed products.
- The Agency Liquor Stores are required to sell to all other persons at least the posted price. The agent may establish a mark-up for their retail price.
- The Agency Liquor Stores have weekly deliveries.
- The Department supplies a quarterly price book with various classes, varieties and brands of liquor for sale with the state's posted price.
- Agency Liquor Stores have 60 days from the date of invoice to pay for products purchased from the State Liquor Warehouse.

**Agency Store Purchase Price**

*Example*
Agency Liquor Store with commission rate of 8.76%; sales volume discount of .875% and weighted average discount of 2.371%

| | |
|---|---|
| Posted Price for case | $100.00 |
| Less commission rate | ( 8.76) |
| Less HB sales volume commission | ( .88) |
| Less weighted average discount | ( 2.37) |
| Actual Cost to Agency Store | $ 87.99 |

*For all cases purchased, whether sold to retail licensees or the general public.

If the store sells the full case to a retail licensee, they are required to give a case lot discount of 8% off the posted price for regular listed products.

*Example*

| | |
|---|---|
| Posted Price of case | $100.00 |
| Less 8% discount | ( 8.00) |
| Cost to All-Beverage licensee | $ 92.00 |

If the store sells to the retail licensee in less than a full case, the cost is the posted price.

If the store sells to the general public, the cost has to be at least the posted price. The store may add mark-up at their discretion.

**Pricing Formula**

Posted Price: Wholesale price of liquor plus freight multiplied by profit percentage and license and excise tax.

*Example*

| | |
|---|---|
| Cost of liquor case | $100.00 |
| Freight cost to stores | 1.35 |
| sub-total | $101.35 |
| State Mark-up(40%) | +40.54 |
| | $141.89 |
| Excise Tax (16%) | +22.70 |
| License Tax (10%) | +14.19 |
| Price Per Case | $178.78 |
| Number of Bottles/case | 12 |
| Posted Price per bottle | $ 14.90 |

**New Agency Liquor Stores**

- Current number of State Agency Liquor Stores in operation is 95
- Any new state agency liquor store must be operated by an agent

**Quota Limitations [16-2-109, MCA]**

- One Agency Liquor Store for communities with populations of 12,000 or less
- In communities greater than 12,000, 1 Agency Liquor Store for the first 12,000 inhabitants and 1 additional agency store within increments of population of 40,000 inhabitants above 12,000 inhabitants

**Location Limitations [16-2-109, MCA]**

- New stores may not be located in a community that is closer than 35 miles to another community in which an agency liquor store unless the population permits.
- In communities that may have more than 1 agency liquor store they may not be located closer than a 1-mile radius of each other
- May not be in or adjacent to a grocery store in communities greater than 3,000.

**Public Hearings**

- A public hearing will be conducted by the Department of Revenue when all of the following conditions are met [ARM 42.11.305]:
  - The Department of Revenue receives a petition signed by at least the minimum qualified petitioners (5% of population) to open a state agency liquor store
  - The Department of Revenue receives a letter from a person willing to submit a proposal or bid to operate a state agency liquor store in the community
  - The number of state agency liquor stores currently operating in the community does not exceed the quota limit
  - The nearest community with an operating state agency liquor store is more than 35 miles as measured from the nearest community boundaries along the shortest route on a paved road between the two communities
  - The Department of Revenue has not solicited for an agent in the community within the previous 3 years

**Hearing Process [ARM 42.11.305]**

- Public hearing held in the community where the proposed store is to be located and advertised twice during a 2-week period in the nearest daily newspaper in general circulation in the area
- Within one week of the hearing the hearing officer will submit a report and a recommendation whether to proceed
- Within one week of the hearing officer's report and recommendation the Department will decide whether to proceed

**Selection of an Agent [ARM 42.11.310]**

- Selected according to competitive procedures under the Montana Procurement Act
- For stores in communities with less than 3,000 population, an agent will be selected according to procedures for competitive sealed proposals as defined in ARM 2.5.602 and the agents commission will be initially established at 10% of adjusted gross sales
- For stores in communities with a population of 3,000 or more, according to procedures for competitive sealed bids as defined in ARM 2.5.601 and the agents commission will be initially set at the percentage bid by the lowest responsive bidder

**Contracts may be Reassigned [16-2-101, MCA]**

- An agent my assign an agency franchise agreement to a person who, upon approval of the department is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement.

## Liquor Control Division - Education

The Liquor Control Division includes a wide variety of educational efforts designed to educate and inform sellers, distributors, and manufacturers of alcoholic beverages, as well as the general public, on topics addressing the safe and responsible consumption of alcoholic beverages in the state.