

SENATE BILL NO. 389

INTRODUCED BY K. VAN DYK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A BREWERY TO IMPORT OR PURCHASE
5 NECESSARY NONBEVERAGE INGREDIENTS CONTAINING ALCOHOL AS INGREDIENTS FOR BLENDING
6 OR MANUFACTURING PURPOSES; REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH
7 CONDITIONS FOR THE IMPORTATION OR PURCHASE; PROVIDING THAT THE NONBEVERAGE
8 INGREDIENTS FOR USE BY A BREWERY AND DISTILLED SPIRIT INGREDIENTS FOR A DISTILLERY OR
9 A MICRODISTILLERY ARE EXEMPT FROM STATE TAXES AND MARKUP; DECREASING THE MINIMUM
10 ALCOHOL CONTENT APPLICABLE TO DISTILLERIES; AND AMENDING SECTIONS 16-1-401, 16-1-404,
11 16-3-214, AND 16-4-311, MCA."

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

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15 **Section 1.** Section 16-1-401, MCA, is amended to read:

16 **"16-1-401. Liquor excise tax.** (1) ~~The~~ Except as provided in subsection (3), the department shall collect
17 at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the state of
18 Montana an excise tax at a rate that is the percent of the retail selling price determined in accordance with the
19 following schedule based on all liquor sold and delivered in the state by a company that manufactured, distilled,
20 rectified, bottled, or processed the liquor and sold the specified number of proof gallons of liquor nationwide in
21 the calendar year preceding imposition of the tax pursuant to this section:

| 22 Nationwide production | Tax rate |
|------------------------------------|----------|
| 23 Less than 20,000 proof gallons | 3% |
| 24 20,000 to 50,000 proof gallons | 8% |
| 25 50,001 to 200,000 proof gallons | 13.8% |
| 26 Over 200,000 proof gallons | 16% |

27 (2) The department shall retain the amount of the excise tax received in a separate account and shall,
28 in accordance with the provisions of 17-2-124, deposit, to the credit of the general fund, the amount collected and
29 received not later than the 10th day of each month.

30 (3) The following are exempt from the tax imposed by this section:

1 (a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a
2 brewery under conditions set by the department as provided in 16-3-214; and

3 (b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions
4 set by the department as provided in 16-4-311 and 16-4-312."

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6 **Section 2.** Section 16-1-404, MCA, is amended to read:

7 **"16-1-404. License tax on liquor -- amount -- distribution of proceeds.** (1) ~~The~~ Except as provided
8 in subsection (4), the department shall collect at the time of sale and delivery of any liquor under any provisions
9 of the laws of the state of Montana a license tax of:

10 (a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that
11 manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor
12 nationwide in the calendar year preceding imposition of the tax pursuant to this section;

13 (b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that
14 manufactured, distilled, rectified, bottled, or processed and that sold more than 50,000 proof gallons but not more
15 than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to
16 this section;

17 (c) 2% of the retail selling price on all liquor sold and delivered in the state by a company that
18 manufactured, distilled, rectified, bottled, or processed and that sold not more than 50,000 proof gallons of liquor
19 nationwide in the calendar year preceding imposition of the tax pursuant to this section.

20 (2) The license tax must be charged and collected on all liquor produced in or brought into the state and
21 taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state
22 markup as designated by the department. The license tax must be figured in the same manner as the state excise
23 tax and is in addition to the state excise tax. The department shall retain in a separate account the amount of the
24 license tax received. The department, in accordance with the provisions of 17-2-124, shall allocate the revenue
25 as follows:

26 (a) Thirty-four and one-half percent is allocated to the state general fund.

27 (b) Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of
28 the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism
29 and chemical dependency.

30 (3) The license tax proceeds that are allocated to the department of public health and human services

1 for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency must be credited
2 quarterly to the department of public health and human services. The legislature may appropriate a portion of the
3 license tax proceeds to support alcohol and chemical dependency programs. The remainder must be distributed
4 as provided in 53-24-206.

5 (4) The following are exempt from the tax and markup imposed by this section:

6 (a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a
7 brewery under conditions set by the department as provided in 16-3-214; and

8 (b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions
9 set by the department as provided in 16-4-311 and 16-4-312."

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11 **Section 3.** Section 16-3-214, MCA, is amended to read:

12 **"16-3-214. Beer sales by brewers -- sample room exception.** (1) Subject to the limitations and
13 restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon
14 payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the
15 department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of
16 this code and rules prescribed by the department, to:

17 (a) sell and deliver beer from its storage depot or brewery to:

18 (i) a wholesaler;

19 (ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver
20 the beer and if:

21 (A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a day
22 to each licensed retailer; and

23 (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a
24 year; or

25 (iii) the public;

26 (b) provide its own products for consumption on its licensed premises without charge or, if it is a small
27 brewery, provide its own products at a sample room as provided in 16-3-213; or

28 (c) do any one or more of the acts of sale and delivery of beer as provided in this code.

29 (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or to
30 licensed retailers.

1 ~~(3)~~ A brewery may import or purchase, upon terms and conditions the department may require,
2 necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing purposes.

3 ~~(3)~~(4) An additional license fee may not be imposed on a brewery providing its own products on its
4 licensed premises for consumption on the premises.

5 ~~(4)~~(5) This section does not prohibit a licensed brewer from shipping and selling beer directly to a
6 wholesaler in this state under the provisions of 16-3-230."

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8 **Section 4.** Section 16-4-311, MCA, is amended to read:

9 **"16-4-311. Distillery license.** (1) The department may, upon receipt of an application, issue a distillery
10 license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C.
11 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify,
12 blend, denature, and store spirits of an alcoholic content greater than ~~17%~~ 0.5% alcohol by weight for sale to the
13 department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state.
14 Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for
15 blending and manufacturing purposes upon terms and conditions that the department may provide. A licensee
16 may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312.

17 (2) An agricultural producer or association of agricultural producers or legal agents who manufacture
18 and convert agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes
19 other than human consumption are not required to obtain a distillery license from the department."

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