

SENATE BILL NO. 126

INTRODUCED BY J. SESSO

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DISTILLERY LICENSED IN MONTANA MAY BE ISSUED UP TO 12 SPECIAL EVENT PERMITS EACH CALENDAR YEAR THAT AUTHORIZE THE DISTILLERY TO REMOVE LIQUOR PRODUCED AT THE DISTILLERY FOR A 24-HOUR PERIOD FOR SALE AT A SPECIAL EVENT; AMENDING SECTIONS 16-1-424 AND 16-4-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 16-1-424, MCA, is amended to read:

**"16-1-424. Distillery -- reporting -- tax payment -- penalties.** (1) Except as provided in subsection (9), a distillery licensed to do business in this state under 16-4-311 shall, on or before the 15th day of each month, in the manner and form prescribed by the department, make an exact return to the department reporting the total amount of liquor samples provided with or without charge at the distillery or when authorized at a special event in the previous month. The department may at any time make an examination of the distillery's books and of the premises and may otherwise check the accuracy of the return.

(2) The taxes imposed pursuant to 16-1-401 and 16-1-404 upon a distillery licensed under 16-4-311 are due on or before the 15th day of each month from the distiller for liquor sold during the previous month. The department shall adopt rules and provide forms for the proper allocation of taxes.

(3) If a distiller subject to the payment of the taxes provided for in 16-1-401 and 16-1-404 fails to make any return required by this code or fails to make payment of the taxes within the time provided in this part, the department shall, after the time has expired, determine and fix the amount of taxes due the state from the delinquent distiller.

(4) The department shall then proceed to collect the tax with penalties and interest. Upon request of the department, the attorney general shall prosecute in any court of competent jurisdiction an action to collect the tax.

(5) If all or part of the tax imposed upon a distillery by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any



1 other claim, lien, or demand filed or recorded after the warrant is issued.

2 (6) An action may not be maintained to enjoin the collection of the tax or any part of the tax.

3 (7) Any tax owed by a distiller under this code that is not paid within the time provided is delinquent, and  
4 penalty and interest must be added to the delinquent tax as provided in 15-1-216.

5 (8) Except as provided in subsection (9), a distiller who fails, neglects, or refuses to make the return to  
6 the department provided for in this section, refuses to allow the examinations as provided for in this section, or  
7 fails to make an accurate return in the manner prescribed is guilty of a misdemeanor and upon conviction shall  
8 be fined an amount not exceeding \$1,000.

9 (9) A distillery for which the tax is less than \$10 a month from the sale of samples is not required to file  
10 a return or pay the tax for that month under this section."

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12 **Section 2.** Section 16-4-312, MCA, is amended to read:

13 "**16-4-312. Domestic distillery.** (1) A distillery located in Montana and licensed pursuant to 16-4-311  
14 may:

15 (a) import necessary products in bulk;

16 (b) bottle, produce, blend, store, transport, or export liquor that it produces;

17 (c) perform those operations that are permitted for bonded distillery premises under applicable  
18 regulations of the United States department of the treasury.

19 (2) (a) A distillery located in Montana and licensed pursuant to 16-4-311 may be issued up to 12 special  
20 event permits each calendar year that authorize the distillery to remove liquor produced at the distillery for a  
21 24-hour period for sale at a special event. An application for a special event permit must be presented to the  
22 department at least 3 days in advance of the special event, must be accompanied by a \$10 special permit fee,  
23 and must describe the location where the special event is to be held and the nature of the special event.

24 (b) A special event permit authorizes the distillery to:

25 (i) provide, with or without charge, up to 2 ounces of liquor to a consumer for consumption between 10  
26 a.m. and 8 p.m. on the premises at which the special event is being conducted. The liquor may be consumed  
27 only within the premises of the special event and only between 10 a.m. and 8 p.m.

28 (ii) sell up to 1.75 liters of liquor directly to a consumer for off-premises consumption at the minimum retail  
29 price as determined by the department.

30 ~~(2)~~(3) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to the

1 department under this code, and the department shall include the distillery's liquor as a listed product.

2 (b) The distillery may use a common carrier for delivery of the liquor to the department.

3 (c) A distillery that produces liquor within the state under this subsection ~~(2)~~ (3) shall maintain records  
4 of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and prices  
5 of liquor that it ships to the department and other information that the department may determine to be necessary  
6 to ensure that distribution of liquor within this state conforms to the requirements of this code.

7 ~~(3)~~(4) A microdistillery may:

8 (a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the microdistillery  
9 to consumers for consumption on the premises between 10 a.m. and 8 p.m. A microdistillery may not sell or give  
10 more than 2 ounces of liquor to an individual for on-premises consumption during a business day.

11 (b) sell liquor that it produces at retail at the distillery directly to the consumer for off-premises  
12 consumption if:

13 (i) not more than 1.75 liters a day is sold to an individual; and

14 (ii) the minimum retail price as determined by the department is charged."

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16 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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