1933

LAWS OF MT

CHAPTER 106

An Act to Provide for the Licensing and Regulation of the Manufacture, Sale and Distribution of Beer and Other Similar Fermented Beverages, and for the Raising and Disposition of Revenue Therefrom.

Be it enacted by the Legislative Assembly of the State of Montana:

Title of Act.

Section 1. This Act may be cited as the "Montana Beer Act."

Definitions.

Section 2. In this Act, unless the context otherwise required, the expression:

Board.

(a) "Board" ~~means the~~ State Equalization Board. "Board" as used in this Act means the State Board of Equalization, which shall administer the Act under its provisions ex-officio and without additional compensation.

Controls until 1937, when Liquor Control Board takes over

Beer.

(b) "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt and hops, or of any other similar products in drinkable water.

Brewer.

(c) "Brewer" means any person having a factory or an establishment adapted for the making of beer.

Club.

(d) "Club" means any association of individuals for purposes of mutual entertainment and convenience and shall include the premises occupied or used for any such purpose.

Club member.

(e) "Club Member" means a person, who, whether as a chartered member or admitted according to the by-laws or rules of the club, has become a member thereof who maintains his membership by the payment of his regular periodic dues in the manner provided by such rules or by-laws and whose name and address are entered in the list of membership supplied to the Board at the time of the application for a club license under this Act, or if admitted thereafter within ten (10) days after his admission.

Hotel.

(f) The word "Hotel" as used in this Act shall mean any place in a city or town having a population of Five Thousand (5,000) inhabitants or less, which has at least twenty (20) rooms where the public may, for a

without meals; and in cities or towns having a population of over Five Thousand (5,000) inhabitants, it shall mean a place having at least forty (40) rooms, conducted as a hotel where the public may, for a consideration, obtain sleeping accommodations, with or without meals; in cities or towns having a population of Five Thousand (5,000) inhabitants or more, in addition to providing sleeping accommodations of forty (40) or more rooms for its guests, all hotels described in this section shall have a lobby on the main or ground floor; it being intended hereby to prohibit the sale of beer in ordinary rooming houses or bawdy houses, even though the same shall be conducted under the name or designation of a "hotel."

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(g) "Meals" means food to the extent of a current value of not less than Twenty-five Cents (25c), served and partaken of in a hotel dining room or restaurant.

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(h) "Package" means any container or containers or receptacle or receptacles used for holding beer.

Pa

(i) "Person" includes every partnership, corporation or association.

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(j) "Public Place" includes any place, building or vehicle to which the public has or is permitted to have access and any place of public resort.

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(k) "Restaurant" means any place provided with space and accommodations for not less than Seventy-five (75) persons at one time where the public may, for a consideration, obtain meals; and before any license shall be issued by the Board for the sale of beer in any such restaurant, it must satisfactorily appear that the owner, proprietor or manager of any such restaurant is a citizen of the United States.

Re

(l) "Retailer" means any person engaged in the sale and distribution of beer, either on draught or in bottles, to the public to be served and consumed on the premises of such retailer, or in the sale and distribution of beer in original packages to the public with intent that such packages shall be taken away from the premises of such retailer in unbroken packages for consumption off the premises of such retailer.

Re

Exhibit 2 3/26/13 HB 616

Brewer may sell to public for consumption off the premises.

Section 10. It shall be lawful for any brewer to sell, deliver or distribute beer manufactured by him in original packages to the public with intent that such packages shall be delivered or taken away from the premises of such brewer in unbroken packages for consumption off the premises of such brewer.

Brewers cannot sell or retail beer under retail permit.

Proviso.

Section 11. It shall be unlawful for any brewer or breweries to have or own any permit to sell or retail beer at any place or premises; it being the declared intention to prohibit brewers from engaging in the retail dispensation of beer; provided, however, that this shall not be so construed as to prohibit breweries from making sale and delivery of beer by them manufactured in original packages at either wholesale or retail.

Brewer must label all bottles.

Contents of label.

Also barrels.

How to be labeled.

Section 12. Every brewer, manufacturing and selling beer, shall put upon all bottles containing beer, a distinctive label, showing the nature of the contents, the name of the brewer, and the place where the beer was brewed, and shall show clearly on all barrels or other receptacles containing beer so manufactured, whether bottled or otherwise, the nature of the contents, the name of the brewer, and the place where the beer was brewed. For the purpose of this section, the contents of bottles, barrels or other receptacles containing beer shall be shown by the use of the word "beer", "ale", "stout", or "porter", on the outside of all bottles, barrels and receptacles.

Brewer's fee.

To whom brewer may sell.

Section 13. (1) Any brewer duly licensed as such by the United States of America, who manufactures beer in the State of Montana, may upon payment of a fee of Seven Hundred Fifty Dollars ($750), be licensed by the Board in accordance with the provisions of this Act, and such regulations as may be prescribed by the Board to sell and deliver

(a) Beer and malt liquors to a vendor,

(b) Beer to any person who is a holder of a subsisting permit to purchase beer under this Act,

(c) Beer to licensees who are entitled to purchase beer from a brewer under this Act; or to do any one or more of such things.

Board n grant o refuse license.

May sus or cance

Notice refusal, pension cancella

Appeal District Court.

Must b taken 30 days

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(2) The Board may, in its discretion, grant or refuse such license and may from time to time, in the exercise of like discretion, with or without any hearing or the assigning of reason therefor, suspend or cancel any such license, and all rights of the brewer to sell or deliver beer or malt liquor thereunder. When the Board shall have refused to grant a brewer's license, as herein provided for, or shall revoke or suspend a license previously issued by it, the Board shall notify the applicant or the licensee, as the case may be, in writing by registered mail to the address of such applicant or licensee, of its action, giving the reasons therefor, and thereupon such applicant or licensee shall have a right of appeal to the District Court of the county in which he shall reside, from the action of the Board, by filing a notice with the Clerk of the District Court and paying the filing fee required to commence a suit or action in the District Court, which appeal must be so taken within thirty (30) days after the order made and entered by the Board. The trial shall be had before the District Court upon the record as presented to the Board and upon which its decision was rendered and there shall not be any additional evidence introduced or anything in the nature of a trial de novo.

Tax pe barrel by bre

(3) In addition to the annual license tax hereby imposed, a tax of Fifty Cents (50c) per barrel of thirty-one (31) gallons, is hereby levied and imposed on each and every barrel sold by such licensed brewer, which said tax shall be due at the end of each month and shall be payable with the return required to be made under the provisions of Section 7 hereof.

Applic as wh

Section 14. Any person desiring to sell and distribute beer as a wholesaler under the provisions of this Act shall apply to the Board for a permit to do so and tender with his application the license fee hereinafter provided for, together with a certificate of good moral character of the applicant by the County License Board, hereafter provided for by the provisions of Section 43 (c).

Duty Board applic of wh

Upon being satisfied from such application, or otherwise, that such applicant is qualified as herein provided, the Board shall issue such license to such person, which license shall be at all times prominently displayed in

sell at retail at fixed location shall be approved by majority of County Board.

location under the provisions of this Act, shall be issued until the application for the same shall have been approved by a majority of the members of the Board of License Control, hereinafter provided for, in the county where such retail place of business is to be located.

Number of licenses to retailers each year.

(b) The number of licenses granted by the Board to retailers in cities, towns and villages shall not in any one (1) year exceed:

Provision to quota System

One (1) license for the first Five Hundred (500) population, or fraction thereof;

A second license for the next Five Hundred (500) population, or fraction thereof, up to One Thousand (1,000) population;

A third license for a population of at least Two Thousand (2,000);

A fourth license for a population of at least Three Thousand (3,000); and

One (1) license for each additional Four Thousand (4,000) of population thereafter.

Board to appoint County License Board.

Duties.

(c) The Board shall be authorized and it is hereby made its duty to appoint in each of the several counties of the state a County License Board, to be composed of three (3) County Commissioners, whose duty it shall be to investigate the moral character, qualifications and standing of each applicant for a license to sell at retail or wholesale, at a place of business; and no license shall be issued by the State Board of Equalization until the application therefor has been approved by a majority of the County License Board.

County Board must approve all licenses.

Further limitations.

(d) In the issuance of licenses to retailers under the provisions of this Section, the following further limitations shall apply;

Hotel must have been in business one year prior to application.

(1) A hotel in order to obtain a license as provided in this Act for the sale of beer and for the preference rights herein provided for, must have been engaged in business for a period of at least one (1) year before making application for any such license.

No one shall have more than 2 licenses to sell beer in the state.

(2) In the issuance of wholesale licenses for the dispensing of beer in the several counties of the state, no

more than two (2) licenses [illegible]

person, firm, partnership, corporation or association of individuals for the sale of beer anywhere within the State of Montana.

Hotel applicant preferred where only one retail license allowed.

(3) In all cases where the population of a city, town or village shall admit of the issuance of only one (1) retail license therein, the Board must issue the same to a hotel applicant, if there be one, as in this Act defined, provided said hotel applicant is otherwise qualified as herein prescribed.

Hotel preferred where 2 licenses

(4) In all cases where the population of a city, town or village shall admit of the issuance of two retail licenses therein, the Board must issue one thereof to a hotel applicant, if there be one, as in this Act defined, provided said hotel applicant is otherwise qualified as herein prescribed.

Hotel preferred.

(5) In all cases where the population of a city, town or village shall admit of the issuance of three (3) or more retail licenses therein, the Board shall give preference in the case of each alternate application to a hotel applicant, if there be one, as in this Act defined, provided said hotel applicant is otherwise qualified as herein prescribed.

Interest [illegible] prefer sa[illegible] through hotels.

Nothing in this section contained shall be construed to limit the issuance of licenses to hotels as in this Act defined; it being intended hereby, in the public interest and to facilitate regulation, to prefer the sale of beer through hotels.

Board m[illegible] issue lic[illegible] to retail[illegible] outside [illegible] city limi[illegible]

Section 44. The Board, in its discretion, may issue a license to a retailer outside of the limits of cities, towns and villages.

License [illegible]

Section 45. Each licensee, under the provisions of this Act, shall pay an annual license fee as follows:

Wholesa[illegible]

Each wholesaler, One Hundred and Fifty Dollars ($150);

Hotel.

Each hotel, One Hundred and Twenty-Five Dollars ($125);

Restaur[illegible]

Each restaurant, One Hundred Dollars ($100);

Retailer.

Each retailer, Three Hundred Dollars ($300);