

1 HOUSE BILL NO. 204

2 INTRODUCED BY C. CLARK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A BOUTIQUE BEER OR WINE LICENSE FOR THE
5 OFF-PREMISES CONSUMPTION OF BEER OR WINE AT A SPECIALTY SHOP; PROVIDING FOR A
6 STREAMLINED TRANSFER FROM AN EXISTING OFF-PREMISES BEER OR WINE LICENSE TO A
7 BOUTIQUE LICENSE; AUTHORIZING LIMITED TASTING EVENT PERMITS ON THE PREMISES OF THE
8 BOUTIQUE BEER OR WINE LICENSEE; ESTABLISHING REQUIREMENTS FOR A BEER OR WINE TASTING
9 EVENT PERMIT; PROVIDING PENALTIES; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTION
10 16-3-306, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

13
14 **NEW SECTION. Section 1. Boutique beer or wine license for off-premises consumption -- license**
15 **transfer.** (1) A boutique license to sell beer, table wine, or both in the original packages for off-premises
16 consumption may be issued only to a person, firm, or corporation that is approved by the department to sell beer,
17 table wine, or both at premises operated as a specialty retail shop as provided in this section. The number of
18 licenses that the department may issue is not limited by the provisions of 16-4-105.

19 (2) (a) A specialty retail shop may not be associated with a retail store on the same premises, including
20 a bona fide grocery store or a drugstore licensed as a pharmacy, unless the specialty retail shop meets the
21 criteria in subsection (2)(b). The specialty retail shop may not have more than \$3,000 worth of food items in its
22 inventory. A specialty retail shop may operate only between the hours of 9 a.m. and 9 p.m. except as provided
23 in subsection (6) or as otherwise limited by a city, town, or county ordinance.

24 (b) A specialty retail shop associated with any retail business, whether or not under separate ownership,
25 must be separated by permanent, floor-to-ceiling walls that enclose an area that may be locked when not in use.

26 (c) A specialty retail shop shall comply with the provisions of 16-3-306(1) and shall meet the criteria
27 under 16-4-401.

28 (d) A beer and wine license issued under 16-4-115 for off-premises consumption may be converted to
29 a boutique license if the licensee meets the requirements of this section, submits an application to convert the
30 retail license for off-premises consumption to a boutique license, and pays the fee for a license as provided in

1 16-4-501(1)(d). An application to convert from an existing retail off-premises beer or wine license to a boutique
 2 license is exempt from the provisions of subsections (3) and (4) unless the department has notified the applicant
 3 of license compliance problems in the previous year or the applicant's floor plan has changed, in which case
 4 subsections (3) and (4) apply.

5 (3) Upon receipt of a completed application for a license under this section, accompanied by the
 6 necessary license fee as provided in 16-4-501(1)(d), the department shall request that the department of justice
 7 make a background investigation of all matters relating to the application.

8 (4) Based on the results of the investigation and a determination that the specialty retail shop has met
 9 the requirements of this section and as provided by rule, the department shall determine whether:

- 10 (a) the applicant is qualified to receive a license;
 11 (b) the applicant's premises are suitable for the carrying on of the business; and
 12 (c) the requirements of this section and the rules promulgated by the department are met and complied
 13 with.

14 (5) (a) License applications submitted under this section are exempt from 16-4-203 and 16-4-207.

15 (b) Unless the context requires otherwise, the provisions of this section that apply to a beer and wine
 16 retailer licensed under 16-4-115 apply to a licensee under this section.

17 (6) A specialty retail shop may apply to the department for a wine or beer tasting event permit as
 18 described in [section 2]. For a wine or beer tasting event, the specialty retail shop may be open until 10 p.m.

19 (7) The department shall adopt rules to implement the provisions of this section.

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 21 **NEW SECTION. Section 2. Beer and wine tasting event -- off-premises beer and wine retailers.**

22 (1) A person licensed to sell beer, table wine, or both for off-premises consumption under [section 1] may, upon
 23 meeting the requirements of subsection (4) of this section, hold tasting events consistent with the boutique license
 24 for beer, table wine, or both at the licensed premises as provided in this section.

25 (2) The licensee may hold up to 12 tasting events in a calendar year.

26 (3) An individual serving size at a tasting event may not exceed 1 ounce, and a person may not receive
 27 more than 10 servings at a tasting event.

28 (4) To obtain a permit for a tasting event, a licensee:

- 29 (a) must have a boutique license in good standing pursuant to [section 1];
 30 (b) shall pay a \$50 annual fee for a tasting events permit; and

1 (c) shall at the department's request provide proof of compliance with Title 16, chapter 4, part 10, for
2 individuals who are to serve beer or wine at the tasting event.

3 (5) If a licensee under [section 1] qualifies under subsection (4) of this section, the department shall issue
4 an annual permit that contains places for 12 dates for tasting events. Prior to each tasting event, the licensee
5 shall write the date of that tasting event on the appropriate place on the permit and post the permit in a
6 conspicuous place at the licensed premises. A copy of the permits, including dates, must be kept on file by the
7 business for 3 years.

8 (6) Failure to post the permit or failure to enter the date on the permit as required under subsection (5)
9 is an offense punishable by a \$500 fine for a first offense of either failure to post the permit or failure to enter a
10 date. Subsequent offenses are punishable as provided in 16-4-406. Failure to obtain a permit prior to holding a
11 tasting event is punishable as provided in 16-4-406.

12 (7) A licensee under [section 1] that is holding a tasting event shall notify the local law enforcement
13 agency that has jurisdiction over the premises where the tasting event is to be held. The local law enforcement
14 agency may enter the premises and ensure that the tasting event comports with the requirements of this section,
15 including the posting of the permit and entry of the date of the tasting event on the permit.

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17 **Section 3.** Section 16-3-306, MCA, is amended to read:

18 **"16-3-306. Proximity to churches and schools restricted.** (1) Except as provided in subsections (2)
19 through (4), a retail license may not be issued pursuant to this code to any business or enterprise whose
20 premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue,
21 or other place of worship or as a school other than a commercially operated or postsecondary school. This
22 distance must be measured in a straight line from the center of the nearest entrance of the place of worship or
23 school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's
24 licensing authority.

25 (2) However, the department may renew a license for any establishment located in violation of this
26 section if the licensee does not relocate an entrance any closer than the existing entrances and if the
27 establishment:

28 (a) was located on the site before the place of worship or school opened; or

29 (b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January
30 1, 1937.

