

1 HOUSE BILL NO. 405

2 INTRODUCED BY R. HAGAN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL LAWS; CLARIFYING THAT THE
 5 DEPARTMENT OF REVENUE HAS THE DUTY TO CONTROL THE CONSUMPTION OF LIQUOR WITH
 6 RESPECT TO LICENSED AND UNLICENSED PERSONS; ~~PROVIDING THAT THE DEPARTMENT OF~~
 7 ~~JUSTICE MAY REFER ANY MATTER RELATING TO ALCOHOLIC BEVERAGE LAW ENFORCEMENT TO~~
 8 ~~LOCAL LAW ENFORCEMENT AUTHORITIES AND REQUIRING THE LOCAL LAW ENFORCEMENT~~
 9 ~~AUTHORITY TO INVESTIGATE THOSE MATTERS AND ENFORCE THE ALCOHOLIC BEVERAGE LAWS;~~
 10 PROHIBITING A RESTAURANT THAT DOES NOT HAVE A BEER AND WINE LICENSE FROM ALLOWING
 11 ANY PERSON TO CONSUME BEER OR WINE OR ANY OTHER ALCOHOLIC BEVERAGE ON THE
 12 PREMISES AND PROVIDING CIVIL FINES FOR VIOLATIONS; REVISING THE DEFINITION OF "BOTTLE
 13 CLUB"; AND AMENDING SECTIONS 16-1-302, 16-4-423, AND ~~16-6-104~~ 16-6-306, MCA."

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

16
 17 **Section 1.** Section 16-1-302, MCA, is amended to read:

18 **"16-1-302. Functions, powers, and duties of department.** The department has the following functions,
 19 duties, and powers:

20 (1) to buy, import, have in its possession for sale, and sell liquors;

21 (2) to control the possession, sale, ~~and delivery,~~ and consumption of liquors by licensed and unlicensed
 22 persons in accordance with the provisions of this code;

23 (3) to determine the municipalities where agency liquor stores are to be established throughout the state
 24 and the situation of the stores within these municipalities;

25 (4) to lease, furnish, and equip any building or land required to administer its duties under this code;

26 (5) to buy or lease plants and equipment necessary to administer its duties under this code;

27 (6) to employ the necessary employees required to administer this code and to dismiss them, assign
 28 them their title, and define their respective duties and powers and to contract with the department of justice for
 29 investigative services and to receive and process, but not grant or deny, applications or to contract for the
 30 services of experts and persons engaged in the practice of a profession, if appropriate. If the department

1 contracts for the receipt and processing of an application by the department of justice, the application must state
2 that it is to be filed with the department of justice.

3 (7) to determine the nature, form, and capacity of all packages to be used for containing liquor kept or
4 sold under this code;

5 (8) to grant and issue licenses under this code;

6 (9) to place special restrictions on the use of a particular license, which must be endorsed upon the face
7 of the license, if the special restrictions are made pursuant to a hearing held in connection with the issuance of
8 the license or if the special restrictions are agreed to by the licensee;

9 (10) without limiting or being limited by ~~the foregoing~~ subsections (1) through (9), to do all things
10 necessary to administer this code or rules."

11

12 **Section 2.** Section 16-4-423, MCA, is amended to read:

13 **"16-4-423. Restaurant beer and wine license -- prohibited practices by licensed restaurants and**
14 **unlicensed restaurants -- penalties.** (1) A restaurant licensed for the sale of beer and wine pursuant to
15 16-4-420 may not convey to any person by any means that a person may either purchase or consume beer or
16 wine on the premises without being required to purchase food.

17 (2) (a) A restaurant that is not licensed for the sale of beer and wine pursuant to 16-4-420 may not allow
18 any person to consume beer or wine or any other alcoholic beverage on the premises.

19 (b) Any person operating a restaurant who violates the provisions of subsection (2)(a):

20 (i) for a first offense, must be mailed a certified letter by the department ordering that person cease and
21 desist from allowing any person to consume beer and wine or other alcoholic beverage on the restaurant's
22 premises;

23 (ii) for a second offense, shall be fined a civil penalty not to exceed \$500;

24 (iii) for a third offense, shall be fined a civil penalty not to exceed \$1,000; and

25 (iv) for a fourth or subsequent offense, shall be fined a civil penalty not to exceed \$5,000."

26

27 ~~Section 3.~~ Section 16-6-101, MCA, is amended to read:

28 ~~"16-6-101. Employment of investigators and prosecuting officers. (1) The department of justice may~~
29 ~~appoint one or more investigators or prosecuting officers who, under its direction, shall perform the duties it may~~
30 ~~require.~~

1 ~~———— (2) When requested by the department, the department of justice shall:~~
2 ~~———— (a) investigate the character of an applicant applying for the issuance or transfer of a liquor license and,~~
3 ~~if applicable, the suitability of a premises or proposed premises to be used in connection with a liquor license;~~
4 ~~———— (b) investigate all matters relating to the purchase, sale, importation, exportation, possession, and~~
5 ~~delivery, and consumption of alcoholic beverages; and~~
6 ~~———— (c) serve as a liaison to local law enforcement authorities in matters relating to alcoholic beverage law~~
7 ~~enforcement; and~~
8 ~~———— (d) refer any matter relating to alcoholic beverage law enforcement to local enforcement authorities.~~
9 ~~———— (3) A local law enforcement authority shall investigate any matter referred to it pursuant to subsection~~
10 ~~(2)(d) and shall enforce the alcoholic beverage laws."~~

11

12 **SECTION 3. SECTION 16-6-306, MCA, IS AMENDED TO READ:**

13 **"16-6-306. Bottle clubs prohibited -- definition.** (1) The operation of alcoholic beverage bottle clubs
14 is hereby prohibited by any person, persons, partnership, firm, corporation, or association. A bottle club is defined
15 as any person, persons, partnership, firm, corporation, or association maintaining premises not licensed for the
16 sale of alcoholic beverages, for a fee or other consideration, including the sale of food, mixes, ice, or any other
17 fluids for alcoholic beverages, or otherwise furnishing premises for such purposes and from which they would
18 derive revenue.

19 (2) For the purposes of this section, "bottle club" means a commercial enterprise that is open to the
20 public, is not licensed or permitted for the sale of alcohol, and allows on-premises consumption of alcohol with
21 or without consideration."

22 - END -