

SENATE BILL NO. 120

INTRODUCED BY E. BUTTREY

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING FROM ONE TO THREE THE NUMBER OF LIQUOR LICENSES THAT AN INDIVIDUAL MAY POSSESS FOR ON-PREMISES CONSUMPTION OR OFF-PREMISES CONSUMPTION; AND AMENDING SECTION 16-4-401, MCA."

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

Section 1. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection (6) of this section, in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) the applicant will not possess an ownership interest in more than ~~one establishment~~ three establishments licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a).



1 (ii) each individual who has control over the operation of the license meets the requirements for an
2 individual applicant listed in subsection (2)(a);

3 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
4 individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a
5 corporation who owns less than 10% of the outstanding stock in that corporation.

6 (iv) the corporation is authorized to do business in Montana;

7 (c) if the applicant is a privately held corporation:

8 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual
9 applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the
10 applicant shall designate two or more officers or board members, each of whom must meet the requirements for
11 an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the
12 requirements of subsection (2)(a).

13 (ii) each individual who has control over the operation of the license meets the requirements for an
14 individual applicant listed in subsection (2)(a);

15 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
16 individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a
17 corporation who owns less than 10% of the outstanding stock in that corporation.

18 (iv) the corporation is authorized to do business in Montana;

19 (d) if the applicant is a general partnership, each partner must meet the requirements of subsection
20 (2)(a);

21 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all
22 limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements
23 of subsection (2)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners
24 must meet the requirements of subsection (2)(a).

25 (f) if the applicant is a limited liability company, all managing members and those members whose
26 ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (2)(a). If
27 no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of
28 subsection (2)(a).

29 (3) In the case of a license that permits only off-premises consumption, the department shall find in every
30 case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license

1 that:

2 (a) if the applicant is an individual:

3 (i) the applicant will not possess an ownership interest in more than ~~one establishment~~ three
4 establishments licensed under this chapter for all-beverages sales;

5 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

6 (iii) the applicant or any member of the applicant's immediate family is without financing from or any
7 affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

8 (iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,
9 the applicant's rights have been restored;

10 (v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business
11 person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all
12 applicable laws of the state and local governments; and

13 (vi) the applicant is not under 19 years of age;

14 (b) if the applicant is a publicly traded corporation:

15 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed
16 in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall
17 designate two or more officers or board members, each of whom must meet the requirements for an individual
18 applicant listed in subsection (3)(a).

19 (ii) the corporation is authorized to do business in Montana;

20 (c) if the applicant is a privately held corporation:

21 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual
22 applicant listed in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the
23 applicant shall designate two or more officers or board members, each of whom must meet the requirements for
24 an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet the
25 requirements of subsection (3)(a).

26 (ii) the corporation is authorized to do business in Montana;

27 (d) if the applicant is a general partnership, each partner must meet the requirements of subsection
28 (3)(a);

29 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all
30 limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements

1 of subsection (3)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners
2 must meet the requirements of subsection (3)(a).

3 (f) if the applicant is a limited liability company, all managing members and those members whose
4 ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (3)(a). If
5 no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of
6 subsection (3)(a).

7 (4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or wholesaling
8 of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of
9 a new license or for the approval of the transfer of a license that:

10 (a) if the applicant is an individual:

11 (i) the applicant has no ownership interest in any establishment licensed under this chapter for retail
12 alcoholic beverages sales;

13 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

14 (iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,
15 the applicant's rights have been restored;

16 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business
17 person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all
18 applicable laws of the state and local governments;

19 (v) the applicant is not under 19 years of age; and

20 (vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
21 controlled by a manufacturer of an alcoholic beverage;

22 (b) if the applicant is a publicly traded corporation:

23 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed
24 in subsection (4)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall
25 designate two or more officers or board members, each of whom must meet the requirements for an individual
26 applicant listed in subsection (4)(a).

27 (ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
28 controlled by a manufacturer of an alcoholic beverage; and

29 (iii) the corporation is authorized to do business in Montana;

30 (c) if the applicant is a privately held corporation:

1 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual
2 applicant listed in subsection (4)(a). If no single owner owns more than 10% of the outstanding stock, the
3 applicant must designate two or more officers or board members, each of whom must meet the requirements for
4 an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet the
5 requirements of subsection (4)(a).

6 (ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
7 controlled by a manufacturer of an alcoholic beverage; and

8 (iii) the corporation is authorized to do business in Montana;

9 (d) if the applicant is a general partnership, each partner must meet the requirements of subsection
10 (4)(a);

11 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all
12 limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements
13 of subsection (4)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners
14 must meet the requirements of subsection (4)(a).

15 (f) if the applicant is a limited liability company, all managing members and those members whose
16 ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (4)(a). If
17 no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of
18 subsection (4)(a).

19 (5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply
20 separately to each class of stock.

21 (6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to
22 16-4-302.

23 (7) An applicant's source of funding must be from a suitable source. A lender or other source of money
24 or credit may be found unsuitable if the source:

25 (a) is a person whose prior financial or other activities or criminal record:

26 (i) poses a threat to the public interest of the state;

27 (ii) poses a threat to the effective regulation and control of alcoholic beverages; or

28 (iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business;

29 or

30 (b) has been convicted of a felony offense within 5 years of the date of application or is on probation or

1 parole or under deferred prosecution for committing a felony offense."

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