

SENATE BILL NO. 120

INTRODUCED BY E. BUTTREY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING FROM ONE TO THREE THE NUMBER OF CERTAIN
5 LIQUOR LICENSES THAT AN INDIVIDUAL MAY POSSESS FOR ON-PREMISES CONSUMPTION OR
6 OFF-PREMISES CONSUMPTION; LIMITING EXPANSION TO OWNERSHIP OF 50% OR LESS OF THE
7 ALLOWABLE LICENSES IN A QUOTA AREA; AND AMENDING SECTION SECTIONS 16-4-205 AND 16-4-401,
8 MCA."

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

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12 **SECTION 1.** SECTION 16-4-205, MCA, IS AMENDED TO READ:
13 **"16-4-205. ~~Limit one license to person~~ Limitation on number of licenses -- business in name of**
14 **licensee.** (1) A Subject to the provisions of 16-4-401, a person may not be issued more than ~~one~~ three
15 all-beverages license ~~in any year~~ licenses, with the exception of a secured party issued an additional
16 all-beverages license as the result of a default. A secured party shall transfer ownership of any additional
17 all-beverages license within 180 days of issuance. A business may not be carried on under any license issued
18 under this chapter except in the name of the licensee.

19 (2) The provisions of this section do not apply to licenses held by the Montana heritage preservation and
20 development commission under the provisions of 16-4-305."

21
22 **Section 2.** Section 16-4-401, MCA, is amended to read:
23 **"16-4-401. License as privilege -- criteria for decision on application.** (1) A license under this code
24 is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

25 (2) Except as provided in 16-4-311 and subsection (6) of this section AND SUBJECT TO SUBSECTION (8),
26 in the case of a license that permits on-premises consumption, the department shall find in every case in which
27 it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

28 (a) if the applicant is an individual:
29 (i) AND THE APPLICATION IS APPROVED, the applicant will not possess an ownership interest in more than
30 ~~one establishment~~ three establishments licensed under this chapter for all-beverages sales;

- 1 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;
- 2 (iii) the applicant or any member of the applicant's immediate family is without financing from or any
3 affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;
- 4 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business
5 person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all
6 applicable laws of the state and local governments; and
- 7 (v) the applicant is not under 19 years of age;
- 8 (b) if the applicant is a publicly traded corporation:
- 9 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual
10 applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the
11 applicant shall designate two or more officers or board members, each of whom must meet the requirements for
12 an individual applicant listed in 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)(b)(iii) does not apply to a shareholder of a
17 corporation who owns less than 10% of the outstanding stock in that corporation EXCEPT THAT THE PROVISIONS OF
18 SUBSECTION (8) APPLY.
- 19 (iv) 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 (2)(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 (2)(a), and the owners of 51% of the outstanding stock must meet the
25 requirements of subsection (2)(a).
- 26 (ii) each individual who has control over the operation of the license meets the requirements for an
27 individual applicant listed in subsection (2)(a);
- 28 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
29 individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a
30 corporation who owns less than 10% of the outstanding stock in that corporation EXCEPT THAT THE PROVISIONS OF

1 SUBSECTION (8) APPLY.

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

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

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

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

13 (3) In the case of a license that permits only off-premises consumption AND SUBJECT TO SUBSECTION (8),
14 the department shall find in every case in which it makes an order for the issuance of a new license or for the
15 approval of the transfer of a license that:

16 (a) if the applicant is an individual:

17 (i) AND THE APPLICATION IS APPROVED, the applicant will not possess an ownership interest in more than
18 ~~one establishment~~ three establishments licensed under this chapter for all-beverages sales;

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

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

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

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

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

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

29 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed
30 in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall

1 designate two or more officers or board members, each of whom must meet the requirements for an individual
2 applicant listed in subsection (3)(a).

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

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

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

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

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

13 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all
14 limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements
15 of subsection (3)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners
16 must meet the requirements of subsection (3)(a).

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

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

24 (a) if the applicant is an individual:

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

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

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

30 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business

1 person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all
2 applicable laws of the state and local governments;

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

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

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

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

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

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

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

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

20 (ii) 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; and

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

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

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

29 (f) if the applicant is a limited liability company, all managing members and those members whose
30 ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (4)(a). If

1 no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of
2 subsection (4)(a).

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

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

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

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

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

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

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

13 or

14 (b) has been convicted of a felony offense within 5 years of the date of application or is on probation or
15 parole or under deferred prosecution for committing a felony offense.

16 (8) AN INDIVIDUAL APPLYING FOR AN ALL-BEVERAGES LICENSE OR HAVING ANY OWNERSHIP INTEREST IN AN
17 ENTITY APPLYING FOR AN ALL-BEVERAGES LICENSE MAY NOT, IF THE APPLICATION WERE TO BE APPROVED, OWN AN
18 INTEREST IN MORE THAN HALF THE TOTAL NUMBER OF ALLOWABLE ALL-BEVERAGES LICENSES IN ANY QUOTA AREA
19 DESCRIBED IN 16-4-201."

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21 NEW SECTION. SECTION 3. NOTIFICATION TO TRIBAL GOVERNMENTS. THE SECRETARY OF STATE SHALL SEND
22 A COPY OF [THIS ACT] TO EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO THE
23 LITTLE SHELL CHIPPEWA TRIBE.

24 - END -