

**Montana Distillery Guild (Jennifer Hensley) testimony in support of HB 350**

Before a statute is changed it's important to understand its history.

§16-3-107 has essentially remained unchanged since 1987. In 2003, Senator Joe Tropila of Great Falls increased the # of representatives allowed for each liquor vendor from 2 to 3, but really the framework has remained the same.

Now it's very important to remember throughout this hearing that what has happened for the last 27 years has been that out of state liquor companies, such as Jim Beam, Jack Daniels, or Sky Vodka, contract with a type of brokerage in Montana, who in turn hire sales representatives to promote several brands in concert. The reps aren't direct employees of the liquor companies. This will become important later on.

In 1987, as in 2003, Montana's liquor system was comprised of large distilleries outside our borders shipping liquor to the state liquor warehouse, which shipped it to the state liquor stores, who sold it to retail consumers.

The framework of laws worked very well for that setup. To prevent very large distilleries from inundating the consumer, and to create a check with which the State Department of Revenue could track the sales promotion activity of out of state interests, the representative statute was thoughtfully created.

28 years later, however, an entirely different business climate has been created within our borders. The 2005 Legislature wisely allowed distilleries to operate in Montana, opening up a new industry to add value to Montana's crops and employ her people. The framework of laws governing that industry, however, was stuck in 1987 when microdistilleries in Montana didn't exist. §16-3-107 is an example of a law within that framework that needs some slight adjustment.

Today, both the Department and the distilleries recognize that the law creates confusion when applied to in-state manufacturing facilities. (In fact, it was the Department that suggested the amendment on the House side to keep both the check for the Department and allow in-state distilleries to make reasonable staffing choices).

The framework of laws is still sound. It still has basis in good logic, checks and balances, it simply needs to be modernized to reflect the reality of today's business environment. HB350 as amended will do just that.

The concept is simple. If a distillery – either in state or out of state - wants to have more than three individuals to promote the sale of their product, those individuals must be directly employed by the distillery, or an owner or officer of the distillery.

Over the last several years, our Montana distillers have found themselves in situations where they were unable to make reasonable business decisions:

- Owners have found themselves in situations where a business model calls for sales representatives to be in the field promoting products, but then the actual owner is precluded from formally promoting the sale of their products when called upon to do so.
- We're told by employees of the Department that this law could be interpreted as any employee wearing branded merchandise while working in the production facility or tasting room of a distillery.
- The current system stops owners and officers of a company from promoting their own product if they don't have a sales representative physically next to them, which is bordering on the absurd.

This bill would clarify that a person who actually was employed by a distillery could, in fact, promote the sale of the product because that is, in fact, a part of any employee's job. This bill would give owners and officers the freedom to discuss their award winning product free from concern that they were violating statute. This bill would also allow out of state interests, such as an executive of Jack Daniels or Jim Beam, who use those previously mentioned brokerages, visit our state and freely discuss their fine product with Montanans.

HB 350 is a common sense, business-friendly piece of legislation, and I urge a yes vote.