

April 23, 2006

Jim Elliott, Senator
Chairman, Revenue and Transportation Interim Committee
P.O. Box 201706
Helena, MT 59620-1706

Dear Mr. Chairman:

I have attached a copy of the letter mailed to each member of the Revenue and Transportation Interim Committee dated March 6, 2006 wherein it was requested an interim study be conducted. I am very pleased that I received such positive replies from this letter. The replies indicate that there is a consensus that parts of Title 16 require there be direction, parameters and procedures set so the administering agencies can achieve the purpose, scope and intent of the legislature.

I will be attending the May 2, 2006 meeting of the Revenue and Transportation Interim Committee where I will formally request the Committee to organize an interim working group to look into making positive changes to Title 16. I will also request that this interim working group include participants from the two agencies who deal most with Title 16 (Revenue and Department of Justice) and people who represent the liquor store agents, tavern owners, and the general public.

I volunteer to be a member of this group at no cost to the state. I would bring unique insight to the group inasmuch as I have been involved in alcoholic beverage matters over the last 11 years. I was involved with the privatization of liquor stores and am currently an alcoholic beverage licensee who has personally experienced the problems of working through the requirements of Title 16 to conduct business, but first and foremost, I am a citizen of the State of Montana who desires the laws and administration of those laws be fair and equitable.

I would hope the interim working group would address those items brought up in my March 6, 2006 letter and would include the following concerns, too:

- 1) The taxes on beer, wine and spirits require adjustment to be fair. They all have one thing in common... they contain alcohol however the taxes on the three products differ. By applying a tax on the actual alcohol content of the product can raise annual revenue by about \$9 million dollars.
- 2) The commission structure for paying agency liquor stores requires changes to stop what I refer to as "commission creep". The current law allows stores to receive commission increases for increases in operating expenses. Stores are grouped by sales volume category so when one gets an increase and the average paid to this group increases, all stores below the average have their commission raised to the group average even if those stores have not experienced operating cost increases. It is possible that all of the revenue generated for the state from liquor sales in the not-so-distant future could be paid out in commiss

Revenue & Transportation Committee
May 2, 2006

Exhibit #12

I look forward to working with you. Thank you for allowing me to appear before your Committee. I am at your service.

Sincerely,

Jim Glantz
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(406) 756-9156 - home
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March 6, 2006

Attachment - March 6, 2006 letter to all members of the Revenue and Transportation Interim Committee

Jim Elliott, Senator
Chairman, Revenue and Transportation Interim Committee
P.O. Box 201706
Helena, MT 59620-1706

Subject: Interim study request

Dear Senator Elliott:

The alcoholic beverage code under Title 16 is a myriad of ambiguity, misinterpretation and subject to great conjecture as to who, what, where, when and how an alcoholic beverage license is to be issued and administered. The code provides little, if any, direction to the Liquor Division of the Department of Revenue and the Gambling Control Division of the Department of Justice on how they are to administer the purpose, scope and intent of the code. The code is discriminatory and allows low level personnel in both agencies too much opportunity to make decisions about how the code is to be interpreted allowing for arbitrary and capricious decisions and sometimes deprecating results leveled against the very citizens they are to serve. The code may not only be discriminatory as written, but could very well go against the rights afforded citizens in the Montana Constitution. Many smart people before me and I have discovered that the code is in need of immediate rehabilitation.

I have had a number of knowledgeable people review and comment on Title 16 and in particular the part that deals with all beverage license issuance and administration. Their response has been that:

- 1) the code is in real need to be rewritten to be more understandable and fair to all applicants;
- 2) it needs to be less contradictory of itself;
- 3) it should strictly construe the roles, limitations and involvement of the administering agencies;
- 4) the person or persons making the decisions to grant a license to an applicant should be at least managerial level;
- 5) protest hearings should only be held when a statistically set number of protests are submitted based on the population that could have protested;
- 6) licensing agencies should be more helpful and less disparaging (as more succinctly put by several reviewers... "more business friendly");
- 7) the information required on the license application should be limited to the most recent 10 years and not allow investigators to go back to day of birth in order to discredit an applicant;
- 8) financial involvement by immediate family members such as spouses, parents and children to help an applicant acquire a license does not create a security interest in the license;
- 9) the liquor laws of Montana do not extend beyond the borders of the state and a Montana residents family member having an ownership interest in an out-of-state alcoholic beverage business is not a Montana alcoholic beverage licensing issue;
- 10) the failure of the administering agencies to issue or deny a license for cause within 90 days of the application submittal date automatically grants the license unless the time is tolled for good cause and substantiated by fact either by the applicant or licensing agency;
- 11) all alcoholic beverage licensing and enforcement activities are better realigned under the Department of Justice rather than the Department of Revenue.

The greatest theme garnered from the reviewers was that an applicant for a license has no idea of exactly the criteria needed to qualify for a license. The minimum qualifications are not clear and this

renders the code ineffective and allows people in the administering agencies to control the license process at their whim and in their own time. They set the rules as they go through the process. Many applicants have thousands if not tens or hundreds of thousands of dollars tied up in the application process and are at the mercy of a clerk as to whether or not a license will be issued or how quickly it will issue. Low level administrative personnel have too much power for their job descriptions. Further, reliable sources within both agencies revealed that the agencies themselves are unclear about what they can and can't do so they opt to wait to see who may bring a court action before making a decision. In this case, the squeakiest wheel gets the grease and the purpose of the code is neglected. This is just a waste of time, effort and money.

Acquiring an alcoholic beverage license is a privilege and every citizen of the state has a right to that privilege subject to the number of licenses legislation directs be issued. Every other license issued by the state including drivers licenses, haircutters, electricians, real estate and insurance salespersons, etc. are required to meet eligibility requirements that are certain and set by law. Their respective applications properly lay out the requirements for licensure. Alcoholic beverage license applicants do not have that basic advantage.

I am requesting an interim study be conducted to make recommendations for the improvement of all parts of Title 16 having to do with the licensing of retail alcoholic beverage establishments. This will allow citizens to work with their government on a level playing field. I believe this will also result in more user-friendly agencies and encourage the agencies to use their limited resources more efficiently and effectively. This will also ensure that justice, good government and right prevail. There is a just and useful purpose for the study.

I am available to help in any manner and will do so at your convenience. The integrity and efficient operation of my state government is important to me and I would consider it a great privilege to participate to make it better.

Sincerely,

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Cc: Revenue and Transportation Interim Committee members

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