

HOUSE BILL NO. 660

INTRODUCED BY BUZZAS, BRANAE, CARNEY, COHENOUR, COONEY, ELLINGSON, FACEY, FRANKLIN, GALLIK, GALLUS, GALVIN-HALCRO, GIBSON, GRIMES, HAINES, HARRIS, HEDGES, KEANE, KEENAN, KITZENBERG, LAWSON, LENHART, LEWIS, MOOD, NEWMAN, PARKER, SHOCKLEY, SMITH, SQUIRES, STORY, TESTER, B. THOMAS, WILSON, WITT

A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING YOUTH ACCESS TO ALCOHOL; PROVIDING FOR REGISTRATION OF SALES OF KEGS OF BEER; INCREASING THE PENALTY FOR SALE OF ALCOHOL TO MINORS AND OTHER UNLAWFUL TRANSACTIONS WITH CHILDREN; AND AMENDING SECTION 45-5-623, MCA."

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

NEW SECTION. **Section 1. Keg registration.** (1) A retailer may not sell a keg of beer unless an identification label or tag is affixed to the keg by the retailer.

(2) An identification label or tag must consist of paper, plastic, metal, or durable material that is not easily damaged or destroyed. Identification labels may contain a nonpermanent adhesive material in order to apply the label directly to an outside surface of a keg at the time of sale. An identification tag may be attached to a keg at the time of sale with a nylon tie or cording, wire tie or other metal attachment device, or other durable means of tying or attaching the tag to the keg.

(3) The identification information contained on the label or tag must include:

- (a) the licensed retailer's name, address, and telephone number;
- (b) a unique keg number assigned by the retailer; and
- (c) a prominently visible warning that intentional removal or defacement of the label or tag is a criminal offense.

(4) (A) Upon return of a keg to the retailer that sold the keg, the retailer is responsible for the complete and thorough removal of the entire identification label or tag and any adhesive or attachment device from the label or tag. The identification label or tag must be kept on file with the retailer for not less than 90 days from the date of return.

(B) A RETAILER THAT ACCEPTS THE RETURN OF A KEG THAT DOES NOT HAVE AN IDENTIFICATION LABEL OR TAG ATTACHED SHALL OBTAIN THE INFORMATION REQUIRED IN [SECTION 2] ON THE ORIGINAL PURCHASER, TO THE EXTENT

POSSIBLE, AND OBTAIN THE SAME INFORMATION ON THE PERSON RETURNING THE KEG. THIS INFORMATION MUST BE KEPT ON FILE WITH THE RETAILER FOR NOT LESS THAN 90 DAYS FROM THE DATE OF RETURN.

(5) A person, other than the retailer, the wholesaler of malt beverages, or a law enforcement officer, may not intentionally remove identification placed on a keg in compliance with this section.

(6) For the purposes of [sections 1 through 3], the term "keg" means a brewery-sealed, single container that contains not less than 7 gallons of beer.

NEW SECTION. Section 2. Recordkeeping. (1) A retailer, at the time of the sale of a keg, shall record the following:

(a) the purchaser's name, address, and date of birth and the number of the purchaser's driver's license, state-issued or military identification card, or valid United States or foreign passport;

(b) the date and time of purchase;

(c) the name of the clerk making the sale;

(d) the keg identification number required under [section 1]; and

(e) the purchaser's signature and date of purchase.

(2) The retailer shall maintain the record for not less than 90 days after the date of the sale.

(3) A retailer who maintains the records required by this section shall make the records available during regular business hours for inspection by law enforcement.

NEW SECTION. Section 3. Violations. (1) A person who knowingly fails to affix a keg label or attach a keg tag as provided in [section 1] is guilty of a misdemeanor and shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for not more than 6 months, or both.

(2) A person required to record information under [section 2] who knowingly makes a materially false entry in the records required under [section 2] is guilty of unsworn falsification to authorities as provided in 45-7-203. In a prosecution under this section, it is a defense for the defendant to establish by a preponderance of the evidence that the defendant reasonably and in good faith relied upon the identification provided by the purchaser of OR PERSON RETURNING a keg.

(3) A person may not intentionally remove, deface, or damage the identification on a keg to make it unreadable. A person convicted of intentional removal or defacement of the label or tag shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for not more than 6 months, or both.

(4) A RETAILER THAT ACCEPTS A KEG FOR RETURN THAT DOES NOT HAVE AN IDENTIFICATION LABEL OR TAG

ATTACHED AND THAT RECORDS THE INFORMATION REQUIRED, AS PROVIDED IN [SECTION 1(4)(B)], MAY NOT BE CONSIDERED TO HAVE VIOLATED SUBSECTION (2) OR (3).

Section 4. Section 45-5-623, MCA, is amended to read:

"45-5-623. Unlawful transactions with children. (1) Except as provided for in 16-6-305, a person commits the offense of unlawful transactions with children if the person knowingly:

(a) sells or gives explosives to a child under the age of majority except as authorized under appropriate city ordinances;

(b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of majority;

(c) sells or gives an alcoholic beverage to a person under 21 years of age;

(d) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child under the age of majority without authorization of the parent or guardian; or

(e) tattoos a child under the age of majority without the explicit in-person consent of the child's parent or guardian. For purposes of this subsection, "tattoo" has the meaning provided in 50-2-116(2)(k)(vi). Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of this subsection.

(2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not to exceed ~~\$500~~ \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed ~~\$1,000~~ \$2,000 or be imprisoned in the county jail for any term not to exceed ~~6~~ 12 months, or both. (See compiler's comments for contingent termination of certain text.)"

NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 16, chapter 3, part 3, and the provisions of Title 16, chapter 3, part 3, apply to [sections 1 through 3].

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