

SENATE BILL NO. 152  
INTRODUCED BY COCCHIARELLA  
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE QUALIFICATIONS, PROCEDURES, AND FEES FOR OBTAINING SPECIAL PERMITS TO SELL BEER AND TABLE WINE; DEFINING "SPECIAL EVENT"; ~~AND~~ AMENDING SECTIONS 16-1-106, 16-4-301, AND 16-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 16-1-106, MCA, is amended to read:

**"16-1-106. Definitions.** As used in this code, the following definitions apply:

(1) "Agency franchise agreement" means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Agency liquor store" means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or retail price for off-premises consumption.

(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

(6) "Beer importer" means a person other than a brewer who imports malt beverages.

(7) "Brewer" means a person who produces malt beverages.

(8) "Community" means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

(9) "Department" means the department of revenue, unless otherwise specified.

(10) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol by

volume, including but not limited to flavored, sparkling, or carbonated cider.

(11) "Immediate family" means a spouse, dependent children, or dependent parents.

(12) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(13) "Liquor" means an alcoholic beverage except beer and table wine.

(14) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.

(15) "Package" means a container or receptacle used for holding an alcoholic beverage.

(16) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code.

(17) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(18) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(19) "Retail price" means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department's posted price.

(20) "Rules" means rules adopted by the department or the department of justice pursuant to this code.

(21) "Special event", as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

~~(21)~~(22) "State liquor warehouse" means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

~~(22)~~(23) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

~~(23)~~(24) "Subwarehouse" means a building or structure owned or operated by a licensed beer wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's or table wine distributor's warehouse or principal place of business, and used for the receiving, storage, and distribution of beer

or table wine as permitted by this code.

~~(24)~~(25) "Table wine" means wine that contains not more than 16% alcohol by volume and includes cider.

~~(25)~~(26) "Table wine distributor" means a person importing into or purchasing in Montana table wine for sale or resale to retailers licensed in Montana.

~~(26)~~(27) "Warehouse" means a building or structure located in Montana that is owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

~~(27)~~(28) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine."

**Section 2.** Section 16-4-301, MCA, is amended to read:

**"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and issuance.** (1) (a) ~~Any association or corporation~~ An organization OR INSTITUTION that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended, or that is organized and operated to raise funds for a needy person, OR THAT IS AN ACCREDITED MONTANA POSTSECONDARY SCHOOL and conducting a picnic, convention, fair, civic or community enterprise, or sporting event is, in the discretion of the department, entitled to that conducts a special event may receive a special permit to sell beer and table wine to the patrons of that special event; ~~and except as provided in subsection (1)(c), the beer and wine must be consumed within the enclosure in which the event is held.~~ An organization may receive up to three special permits a year.

(b) A civic league or organization that has a tax-exempt designation under section 501(c)(4) of the Internal Revenue Code, 26 U.S.C. 501(c)(4), as amended, OR AN ORGANIZATION AUTHORIZED BY AN ACCREDITED MONTANA POSTSECONDARY SCHOOL TO ENGAGE IN FUNDRAISING ACTIVITIES FOR INTERCOLLEGIATE ATHLETICS THAT HAS A TAX-EXEMPT DESIGNATION UNDER THE PROVISIONS OF SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, 26 U.S.C. 501(C)(3), AS AMENDED, may receive the number of UP TO 12 special permits A YEAR to sell beer and table wine reasonably required to conduct its activities. FOR PURPOSES OF FUNDRAISING ACTIVITIES FOR INTERCOLLEGIATE

ATHLETICS, ONLY ONE ORGANIZATION FOR EACH MONTANA POSTSECONDARY SCHOOL MAY BE AUTHORIZED TO APPLY FOR AND RECEIVE SPECIAL PERMITS UNDER THIS SECTION. All net earnings from the sale of beer and table wine must be contributed to the state of Montana or a political subdivision of the state or must be devoted to purposes required of entities under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended.

(c) An association or corporation engaged in professional sporting contests or junior hockey contests may receive one special permit to sell beer and table wine covering the entire season of play if:

- (i) the association or corporation is sanctioned by a sports organization that regulates the specific sport;
- (ii) the season of play of the sport is specified in advance;
- (iii) an admission fee to the contests is charged; and
- (iv) the contest events are held in facilities that provide seating for at least 1,000 patrons.

(d) The beer and wine sold under this subsection (1) must be consumed at the time when and within the enclosure where the special event, activity, or sporting contest is held.

~~(b)(e)~~ The An application of the association or corporation for a special permit must be presented 3 days in advance, but the department may, for good cause, waive the 3-day requirement. and The application must describe the location of the enclosure where the special event, activity, or sporting contest is to be held, the nature of the special event, activity, or sporting contest, and the period during which it is contemplated that the special event, activity, or sporting contest will be held. An application for a permit for professional sporting contests or junior hockey contests under subsection (1)(c) must provide the inclusive dates of the season of play for the sporting contest. The application must be accompanied by the amount of the permit fee and a written statement of approval of the premises where the special event, activity, or sporting contest is to be held issued by the local law enforcement agency that has jurisdiction over the premises ~~where the event is to be held.~~

~~(e) The permit issued to the association or corporation is a special permit but does not authorize the sale of beer and table wine except starting 1 day before the regular period when events are being held upon the grounds, during the period described in the application, and for 1 day after the period described in the application.~~

~~(d)(f)~~ A special permit issued under this subsection (1) for the purpose of selling and serving beer at an a special event, activity, or sporting contest conducted on the premises of a county fairground or public sports arena authorizes the permitholder to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

~~(e)(g)~~ For the purposes of this subsection (1), a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization otherwise licensed under this code is an association entitled to organization that may receive special permits for three special events a year, as described in

subsection (1)(a), to sell beer and table wine. All net proceeds must go to the post or lodge acquiring the special permit.

(2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code ~~is, in the discretion of the department~~ may receive, without notice or hearing as provided in 16-4-207, ~~entitled to~~ a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at the post or lodge to members and their guests only, to be consumed within the hall or building of the post or lodge.

(b) The application of a nationally chartered veterans' organization or lodge of a recognized national fraternal organization must describe the location of the hall or building where the special permit will be used and the date it will be used.

(c) The special permit may be issued for a 24-hour period only, ending at 2 a.m., and the department may not issue more than 12 special permits to any post or lodge during a calendar year."

**Section 3.** Section 16-4-501, MCA, is amended to read:

**"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

(a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, \$500;

(ii) for each storage depot, \$400;

(b) (i) each beer wholesaler, \$400; each domestic winery producing more than 25,000 gallons of wine, \$400; each domestic winery producing 25,000 gallons or less of wine, \$200; each table wine distributor, \$400;

(ii) for each subwarehouse, \$400;

(c) each beer retailer, \$200;

(d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license;

(ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, \$200;

(e) any unit of a nationally chartered veterans' organization, \$50.

(2) The permit fee under 16-4-301(1) is computed at the following rate;

(a) of \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests,

~~other than those applied for pursuant to 16-4-301(1)(c) those events lasting 2 or more days, but the fee may not exceed \$300 for a series of scheduled sporting events; and~~

~~(b) \$200~~ \$1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c).

(3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee in the sum of \$300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is \$200.

(6) The annual renewal fee for:

(a) a brewer producing 20,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; and

(b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license.

(7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) except as provided in this section, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(b) except as provided in this section, for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(c) except as provided in this section, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary

of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000 may not apply to any transfer or renewal of a license issued prior to July 1, 1974. All licenses, however, are subject to the specified annual renewal fees.

(8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

(9) The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is \$250.

(10) The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(11) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

(12) All license and permit fees collected under this section must be deposited as provided in 16-2-108."

**NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2003.**

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