

## 1 HOUSE BILL NO. 63

2 INTRODUCED BY P. NOONAN

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO LIQUOR LICENSE ADMINISTRATION; PERMITTING  
 6 CERTAIN OUT-OF-STATE RESIDENTS TO PROTEST LIQUOR LICENSE APPLICATIONS FROM ADJOINING  
 7 MONTANA COUNTIES; REMOVING THE PROVISION THAT LIQUOR LICENSE APPLICATION PROTESTS  
 8 MAY BE MADE BASED SOLELY ON CREDITOR STATUS; ALLOWING NONPROFIT AND TAX-EXEMPT  
 9 ORGANIZATIONS TO AUCTION OR RAFFLE ALCOHOLIC BEVERAGES FOR FUNDRAISING PURPOSES;  
 10 AMENDING SECTION 16-4-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
 14 **Section 1.** Section 16-4-207, MCA, is amended to read:  
 15 **"16-4-207. Notice of application -- investigation -- publication -- protest.** (1) When an application  
 16 has been filed with the department for a license to sell alcoholic beverages at retail or to transfer the location of  
 17 a retail license, the department shall review the application for completeness and, based upon review of the  
 18 application and any other information supplied to the department, determine whether the applicant or the  
 19 premises to be licensed meets criteria provided by law. The department may make one request for additional  
 20 information necessary to complete the application. The application is considered complete when the applicant  
 21 furnishes the application information requested by the department. When the application is complete, the  
 22 department of justice shall investigate the application as provided in 16-4-402. When the department determines  
 23 that an application for a license under this code is complete, the department shall publish in a newspaper of  
 24 general circulation in the city, town, or county from which the application comes a notice that the applicant has  
 25 made application for a retail on-premises license or a transfer of location and that protests may be made against  
 26 the approval of the application by ~~a person who has extended credit to the transfer or by~~ residents of the county  
 27 from which the application comes, or residents of adjoining Montana counties, or residents of adjoining counties  
 28 in another state if the criteria in subsection (4)(d) are met. Protests ~~may~~ must be mailed to ~~a named administrator~~  
 29 ~~in~~ the department within 10 days after the final notice is published. Notice of application for a new license must  
 30 be published once a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of

1 a license must be published once a week for 2 consecutive weeks. Notice may be substantially in the following  
2 form:

3 NOTICE OF APPLICATION FOR RETAIL

4 ALL-BEVERAGES LICENSE

5 Notice is given that on the ..... day of ....., 20..., one (name of applicant) filed an application for a retail  
6 all-beverages license with the Montana department of revenue to be used at (describe location of premises where  
7 beverages are to be sold). ~~A person who has extended credit to the transferor and residents~~ Residents of .....  
8 counties may protest against the approval of the application. Each protestor is required to mail a letter that  
9 contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed  
10 by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an  
11 application may not be considered as a protest. Protests may be mailed to ....., department of revenue, Helena,  
12 Montana, on or before the ..... day of ....., 20.....

13 Dated .....

14 Signed

15 .....  
16 ADMINISTRATOR

17 (2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient  
18 to cover the costs of publishing the notice.

19 (3) (a) If the ~~administrator~~ department receives no written protests, the department may approve the  
20 application without holding a public hearing.

21 (b) A response to a notice of opportunity to protest an application may not be considered unless the  
22 response is a letter satisfying all the requirements contained in the notice in subsection (1).

23 (c) If the department receives sufficient written protests that satisfy the requirements in subsection (1)  
24 against the approval of the application, the department shall hold a public hearing as provided in subsection (4).

25 (4) (a) If the department receives at least one protest but less than the number of protests required for  
26 a public convenience and necessity determination as specified in subsection (4)(c), the department shall schedule  
27 a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient cause to  
28 deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for  
29 denial of an application provided for in 16-4-405, exclusive of public convenience and necessity. The hearing  
30 must be governed by the provisions of Title 2, chapter 4, part 6.

1 (b) If the department receives the number of protests required for a public convenience and necessity  
2 determination as specified in subsection (4)(c) and the application is for an original license or for a transfer of  
3 location, the department shall schedule a public hearing to be held in the county of the proposed location of the  
4 license to determine whether the protest presents sufficient cause to deny the application based on the  
5 qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for  
6 in 16-4-405 including public convenience and necessity. The hearing must be governed by the provisions of Title  
7 2, chapter 4, part 6.

8 (c) The minimum number of protests necessary to initiate a public hearing to determine whether an  
9 application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the  
10 proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-beverages  
11 licenses determined for that quota area according to 16-4-201(1), (2), and (5) but in no case less than two. The  
12 minimum number of protests determined in this manner will apply only to applications for either on-premises  
13 consumption beer or all-beverages licenses.

14 (d) A resident of a county in another state that adjoins the county in Montana from which an application  
15 comes may protest an application only if the county or state of residence of the person has certified to the  
16 department that a similarly situated Montana resident would be able to make formal protest of a liquor license  
17 application in that state or county. The department may, by rule, establish how the certification is to be made."  
18

19 **NEW SECTION. Section 2. Fundraising events for nonprofit and tax-exempt organizations.** (1)  
20 A nonprofit organization governed under Title 35, chapter 2, or an organization designated as tax-exempt under  
21 the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended, may raffle or  
22 auction alcoholic beverages at fundraising events. Any alcoholic beverage raffled or auctioned must be given  
23 by the organization to the raffle or auction winner sealed in its original package.

24 (2) If the fundraising event is held on the premises of a business licensed under this code or on premises  
25 for which a permit has been issued under this code, the alcoholic beverage may not be consumed on the  
26 premises. An alcoholic beverage that is on a licensee's premises solely for a fundraising event under this section  
27 does not constitute a violation by the licensee of 16-3-301(1) or 16-6-303.

28 (3) A nonprofit or tax-exempt organization may hold no more than four events per calendar year at which  
29 alcoholic beverages are raffled or auctioned. The duration of each event must be announced at the time any  
30 raffle tickets are sold or auction bids are received. Raffles and auctions held pursuant to this section must be to

1 directly support bona fide charitable, nonprofit, or tax-exempt activities.

2 (4) An alcoholic beverage for raffle or auction must be:

3 (a) acquired, whether by purchase or donation, by the organization from a retailer licensed under the  
4 provisions of this code, excluding a restaurant beer and wine licensee;

5 (b) purchased by the organization from an agency liquor store at not less than the posted price; or

6 (c) received by the organization as a donation at no cost to the organization from any other person  
7 except one licensed as a wholesaler or distributor under this code.

8 (5) No proceeds from the raffle or auction of alcoholic beverages may go to anyone who provided the  
9 alcoholic beverages to the organization for the raffle or auction. Organizations shall maintain for at least 2 years  
10 records of all auctions or raffles of alcoholic beverages, including the source of the alcoholic beverages, the total  
11 money raised by the raffle or auction of alcoholic beverages, and the names of all raffle winners or winning  
12 auction bidders for alcoholic beverages.

13 (6) For a raffle or auction described in subsection (1), raffle tickets may not be sold to, and auction bids  
14 may not be solicited or received from, any person under 21 years of age. The organization raffling or auctioning  
15 alcoholic beverages may not sell, deliver, or give away any alcoholic beverage to a person under 21 years of age  
16 or to any person actually, apparently, or obviously intoxicated.

17 (7) As used in this section:

18 (a) "auction" means the sale of an item or items, which may include alcoholic beverages, whereby the  
19 item for sale is sold to the highest bidder at the bid price. An auctioned item or items may have a reserve price.

20 (b) "raffle" means an event in which a nonprofit or tax-exempt organization sells tickets and each ticket  
21 gives the purchaser of the ticket the chance to win a prize, which may include alcoholic beverages, with the  
22 winner determined by a random drawing.

23

24 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
25 integral part of Title 16, chapter 3, part 3, and the provisions of Title 16, chapter 3, part 3, apply to [section 2].

26

27 NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured,  
28 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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30 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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