



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

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

Section 1. Section 16-4-207, MCA, is amended to read:

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

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

NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE

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

Dated

Signed

.....
ADMINISTRATOR

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

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

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

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

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

must be governed by the provisions of Title 2, chapter 4, part 6.

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

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

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

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

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

(3) A nonprofit or tax-exempt organization may hold no more than four events per calendar year at which

alcoholic beverages are raffled or auctioned. The duration of each event must be announced at the time any raffle tickets are sold or auction bids are received. Raffles and auctions held pursuant to this section must be to directly support bona fide charitable, nonprofit, or tax-exempt activities.

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

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

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

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

(5) No proceeds from the raffle or auction of alcoholic beverages may go to anyone who provided the alcoholic beverages to the organization for the raffle or auction.

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

(7) As used in this section:

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

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

Section 3. Codification instruction. [Section 2] is 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 [section 2].

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

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0063, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 63
INTRODUCED BY P. NOONAN
BY REQUEST OF THE DEPARTMENT OF REVENUE

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