

## 1 SENATE BILL NO. 29

2 INTRODUCED BY L. MOSS

3 BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY PROVIDING FOR THE TRAINING OF PERSONS  
6 SELLING OR SERVING ALCOHOLIC BEVERAGES; PROVIDING A PENALTY; REQUIRING CONSIDERATION  
7 OF MITIGATING CIRCUMSTANCES; PROVIDING FOR RULEMAKING; AND PROVIDING AN APPLICABILITY  
8 DATE THAT THE DEPARTMENT OF REVENUE HAS SOLE JURISDICTION FOR THE TRAINING PROGRAM."

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

11  
12 NEW SECTION. **Section 1. Short title.** [Sections 1 through 8 9] may be cited as the "Responsible  
13 Alcohol Sales and Service Act".

14  
15 NEW SECTION. **Section 2. Legislative intent.** It is the intent of [sections 1 through 8 9] that retail  
16 establishments AND MANUFACTURERS licensed to ~~serve or sell~~ OR SERVE alcoholic beverages TO THE PUBLIC ensure  
17 that ALL LICENSEES AND THEIR employees ~~and their supervisors~~ THAT SELL OR SERVE ALCOHOLIC BEVERAGES are  
18 appropriately trained to comply with state law prohibiting the sale or service of alcoholic beverages to persons  
19 under 21 years of age and to persons who are intoxicated. [SECTIONS 1 THROUGH 9] DO NOT APPLY TO SPECIAL  
20 PERMITS ISSUED UNDER 16-4-301.

21  
22 NEW SECTION. **Section 3. Definition.** As used in [sections 1 through 8 9], "licensee" means a person  
23 or entity licensed by the department to sell alcoholic beverages at retail for either on-premises or off-premises  
24 consumption.

25  
26 ~~NEW SECTION. **Section 4. Training plan required.** An applicant for initial licensure or for renewal,  
27 transfer, or reinstatement of a retail license to sell or serve alcoholic beverages for on-premises or off-premises  
28 consumption shall submit to the department an employee training plan demonstrating how the applicant intends  
29 to comply with the provisions of [section 5].~~

1           NEW SECTION. SECTION 4. NOTIFICATION -- VIOLATION -- PENALTY. (1) A LICENSEE SHALL CERTIFY ANNUALLY  
 2           ON ITS LICENSE RENEWAL FORM THAT THE LICENSEE IS IN COMPLIANCE WITH THE PROVISIONS OF [SECTIONS 1 THROUGH  
 3           9].

4           (2) A LICENSE RENEWAL FORM THAT FALSELY INCLUDES INFORMATION THAT THE LICENSEE AND ALL EMPLOYEES  
 5           HAVE BEEN TRAINED PURSUANT TO [SECTIONS 1 THROUGH 9] IS A VIOLATION OF THIS CODE.

6           (3) IF, AFTER AN INVESTIGATION UNDER 16-4-406, A LICENSEE IS DETERMINED TO HAVE VIOLATED SUBSECTION  
 7           (2), THE LICENSEE MUST BE ASSESSED AN ADMINISTRATIVE PENALTY UNDER 16-4-406 OR THE PENALTY FOR FALSE  
 8           SWEARING UNDER 45-7-202.

9  
 10           NEW SECTION. Section 5. Licensees required to ensure training and post signs. A licensee shall:

11           (1) require each employee who is authorized to sell or serve alcoholic beverages in the normal course  
 12           of employment and the employee's immediate supervisor to successfully complete training to ensure compliance  
 13           with state law regarding the sale and service of alcoholic beverages. The training must be completed within 60  
 14           days of the employee's date of hire and every 5 ~~3~~ years after the employee's initial training.

15           (2) maintain employment records verifying employee completion of the training required in subsection  
 16           (1); ~~and~~

17           ~~—— (3) post signs on the licensee's premises informing customers of the licensee's policy against selling or~~  
 18           ~~servicing alcoholic beverages to any person under 21 years of age and to any person who is intoxicated.~~

19  
 20           NEW SECTION. Section 6. Responsible server and sales training program. (1) The department  
 21           shall ~~establish~~ CERTIFY ALL SERVER AND SALES TRAINING PROGRAMS THAT INCLUDE THE FOLLOWING:

22           (A) EFFECTS OF ALCOHOL ON THE HUMAN BODY;

23           (B) INFORMATION, INCLUDING CRIMINAL, CIVIL, AND ADMINISTRATIVE PENALTIES, RELATED TO 27-1-710 AND THIS  
 24           CODE;

25           (C) PROCEDURES FOR CHECKING IDENTIFICATION;

26           (D) PROCEDURES FOR GATHERING PROPER DOCUMENTATION THAT MAY AFFECT THE LICENSEE'S LIABILITY;

27           (E) TRAINING FOR SKILLS TO HANDLE DIFFICULT SITUATIONS AND TO LEARN EVALUATION TECHNIQUES REGARDING  
 28           INTOXICATED PERSONS OR OTHERS THAT POSE POTENTIAL LIABILITY;

29           (F) A FINAL TEST; AND

30           (G) A CERTIFICATE OF COMPLETION, WHICH MUST BE PROVIDED TO PARTICIPANTS WHO PASS THE FINAL TEST.

1           ~~(2) THE DEPARTMENT MAY HAVE NOT PROVIDE~~ a responsible server and sales training program consisting  
 2 of a train-the-trainer program for volunteer trainers who may provide training pursuant to ~~[sections 1 through 8]~~  
 3 ~~IF THE PROGRAM MEETS THE STANDARDS SET FORTH IN SUBSECTION (1).~~

4  
 5           NEW SECTION. Section 7. Jurisdiction. THE IMPLEMENTATION AND ENFORCEMENT OF ANY MANDATORY  
 6 SERVER AND SALES TRAINING PROGRAMS IN THIS STATE IS UNDER THE EXCLUSIVE AUTHORITY AND JURISDICTION OF THE  
 7 DEPARTMENT.

8  
 9           NEW SECTION. Section 8. Penalty. (1) A licensee found ~~during~~ AS A RESULT OF a routine check for  
 10 compliance with 16-3-301, 16-6-304, or 16-6-305 to be out of compliance with ~~[section 5(1) or (2)]~~ shall pay a ~~\$50~~  
 11 ~~\$200 fine~~ \$50 PENALTY FOR A FIRST OFFENSE, A \$200 PENALTY FOR A SECOND OFFENSE, AND A \$350 PENALTY FOR A  
 12 THIRD OFFENSE IN A 3-YEAR PERIOD ~~for each employee subject to [section 5(1)] who either did not successfully~~  
 13 ~~complete the required training or whose training is not current as required in [section 5(1)].~~ The fine must be paid  
 14 to the department and deposited in the enterprise fund to the credit of the department for administration of  
 15 ~~[sections 1 through 8 9].~~

16           (2) THE DEPARTMENT SHALL CONSIDER THE FOLLOWING AS MITIGATING CIRCUMSTANCES BEFORE TAKING AN  
 17 ACTION PURSUANT TO 16-4-406 AGAINST A LICENSEE WHO IS NOT IN COMPLIANCE WITH THE PROVISIONS OF [SECTIONS  
 18 1 THROUGH 9]:

19           (A) THE LICENSEE'S PRIOR VIOLATION HISTORY;

20           (B) THE LICENSEE'S GOOD FAITH EFFORT TO PREVENT A VIOLATION;

21           (C) THE EXISTENCE OF WRITTEN POLICIES GOVERNING EMPLOYEE CONDUCT; AND

22           (D) WHETHER THE EVIDENCE OF A VIOLATION WAS BASED SOLELY ON THE INVESTIGATING AUTHORITY CREATING  
 23 AN OPPORTUNITY FOR THE VIOLATION RATHER THAN ON COMPLAINTS RECEIVED OR OBSERVED MISCONDUCT.

24  
 25           NEW SECTION. Section 9. Rulemaking. The department shall adopt rules to implement the provisions  
 26 of ~~[sections 1 through 8 9].~~

27  
 28           NEW SECTION. Section 10. Notification to tribal governments. The secretary of state shall send  
 29 a copy of ~~[this act]~~ to each tribal government located on the seven Montana reservations and to the Little Shell  
 30 Chippewa tribe.

