

## 1 SENATE BILL NO. 268

2 INTRODUCED BY F. THOMAS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING WINERIES WITHIN A 100-MILE RADIUS TO SELL  
5 LOCALLY PRODUCED WINE AT PUBLIC MARKETS OR FARMER'S MARKETS IN MONTANA; AMENDING  
6 SECTIONS 7-21-3303, 16-3-411, AND 50-50-202, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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10 **Section 1.** Section 7-21-3303, MCA, is amended to read:  
11 **"7-21-3303. Opening of public market.** (1) A board of county commissioners availing themselves of  
12 the provisions of this part shall, as soon as the necessary lands and premises have been acquired, cause to be  
13 opened and maintained at the county seat and in the quarters acquired an open public market for the benefit of  
14 the farmers, gardeners, and actual producers of farm products. The market is for the sale by the producers  
15 directly to the consumers of butter, eggs, cheese, meats, vegetables, and all other farm products, including wine,  
16 raised or produced for domestic consumption.  
17 (2) The sale of wine from wineries at a public market must meet the requirements of 16-3-411, of local  
18 ordinances, and of the department of revenue as provided in Title 16, chapters 3 and 4."

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20 **Section 2.** Section 16-3-411, MCA, is amended to read:  
21 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:  
22 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;  
23 (b) sell wine it produces at wholesale to wine distributors;  
24 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the  
25 premises; or, pursuant to subsection (3), at a public market as provided in 7-21-3303 or a farmer's market as  
26 defined in 50-50-102.  
27 (d) provide, without charge, wine it produces for consumption at the winery;  
28 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it  
29 produces;  
30 (f) obtain a special event permit under 16-4-301;

1 (g) perform those operations and cellar treatments that are permitted for bonded winery premises under  
2 applicable regulations of the United States department of the treasury; or

3 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the  
4 license.

5 (2) (a) A winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery directly  
6 to licensed retailers if the winery:

7 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine delivered  
8 pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;

9 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the retailer; or

10 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:

11 (A) the wine shipped and delivered by common carrier is shipped directly from the producer's winery or  
12 bonded warehouse;

13 (B) individual shipments delivered by common carrier are limited to three cases a day for each licensed  
14 retailer; and

15 (C) the shipments delivered by common carrier do not exceed 4,500 cases a year.

16 (b) A winery making sales to retail licensees under the provisions of this subsection (2) is considered  
17 a table wine distributor for the purposes of collecting taxes on table wine, as provided in 16-1-411.

18 (c) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors and  
19 retailers, the shipment must be:

20 (i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana  
21 Licensee";

22 (ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good  
23 standing; and

24 (iii) signed for by the wine distributor or retailer or its employee or agent.

25 (d) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine  
26 within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, on  
27 or before the 15th day of each month, in the manner and form prescribed by the department, make a return  
28 reporting the amount of wine that it shipped in the state during the preceding month, names and addresses of  
29 consignees or retailers, and other information that the department may determine to be necessary to ensure that  
30 distribution of table wines within this state conforms to the requirements of this code.

1           (3) (a) A winery licensed or registered pursuant to 16-4-107 may sell wine it produces directly to an  
2 individual consumer at a public market as provided in 7-21-3303 or at a farmer's market as authorized by the  
3 appropriate municipal or county authority if:

4           (i) the wine is in a sealed, unopened container; and

5           (ii) the winery is located within 100 miles of the public market or farmer's market.

6           (b) If the winery sells wine at a public market or farmer's market, the wine must be transported as  
7 provided in (2)(a)(i)."

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9           **Section 3.** Section 50-50-202, MCA, is amended to read:

10           **"50-50-202. Establishments exempt from license requirement -- farmer's market records. (1)**  
11 Establishments owned or operated by the state or a political subdivision of the state that employ a full-time  
12 sanitarian are exempt from licensure but shall comply with the requirements of this chapter and rules adopted  
13 by the department under this chapter.

14           (2) (a) A license is not required to operate an establishment if it is operated by a nonprofit organization  
15 for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure under this  
16 subsection:

17           (i) must be operated in compliance with the remaining provisions of this chapter and rules adopted by  
18 the department under this chapter; and

19           (ii) prior to each operation, shall register with the local health officer or sanitarian on forms provided by  
20 the department.

21           (b) Nonprofit organizations or persons selling baked goods or preserves exclusively for a charitable  
22 community purpose are exempt from registration if they notify the local health officer or sanitarian, by phone or  
23 in person, before the event. The notification required is limited to the date and time of the event, items planned  
24 to be sold, and an estimate of the number of people expected to be served at the event.

25           (3) (a) A license is not required of a gardener, farm owner, or farm operator who sells raw and  
26 unprocessed farm products at a farmer's market.

27           (b) A license is not required of a person selling baked goods or preserves at a farmer's market or  
28 exclusively for a charitable community purpose.

29           (c) A license is not required for a winery licensed or registered by the department of revenue under  
30 16-4-107 that sells wine at a farmer's market or a public market as described in 7-21-3303.

1           (4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall  
2 keep registration records of all individuals and organizations that sell baked goods or preserves at the market.

3           (b) The registration records must include but are not limited to the name of the seller, the seller's address  
4 and telephone number, the products sold by the seller, and the date the products were sold.

5           (c) The registration records must be made available to the local health officer or the officer's agent."  
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7           NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2013.  
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