63rd Legislature SB0294.01

1	SENATE BILL NO. 294
2	INTRODUCED BY E. ARNTZEN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF REVENUE TO ADJUST
5	PENALTIES WITHIN PENALTY RANGES BASED ON MITIGATING AND AGGRAVATING CIRCUMSTANCES
6	ON THE PART OF A LICENSEE VIOLATING A PROVISION OF STATE ALCOHOL LAWS; AND AMENDING
7	SECTION 16-4-406, MCA."
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9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11	Section 1. Section 16-4-406, MCA, is amended to read:
12	"16-4-406. Renewal suspension or revocation penalty mitigating and aggravating
13	circumstances. (1) The department shall upon a written, verified complaint of a person request that the
14	department of justice investigate the action and operation of a brewer, winery, wholesaler, or retailer licensed
15	under this code.
16	(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the
17	department, after reviewing admissions of the licensee or receiving the results of the department of justice's or
18	a local law enforcement agency's investigation, has reasonable cause to believe that a licensee has violated a
19	provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties
20	prescribed:
21	(a) reprimand a licensee;
22	(b) proceed to revoke the license of the licensee;
23	(c) suspend the license for a period of not more than 3 months;
24	(d) refuse to grant a renewal of the license after its expiration; or
25	(e) impose a civil penalty not to exceed \$1,500.
26	(3) The department shall consider mitigating circumstances and may adjust penalties within penalty
27	ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:
28	(a) there have been no violations by the licensee within the past 3 years;
29	(b) there have been good faith efforts by the licensee to prevent a violation;
30	(c) written policies exist that govern the conduct of the licensee's employees;

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1	(d) there has been cooperation in the investigation of the violation that shows that the licensee,
2	employee, or agent of the licensee accepts responsibility;
3	(e) the investigation was not based on complaints received or on observed misconduct, but was based
4	solely on the investigating authority creating the opportunity for a violation; or
5	(f) the licensee has provided responsible alcohol server training to all of their employees.
6	(4) The department shall consider aggravating circumstances and may adjust penalties within penalty
7	ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:
8	(a) prior warnings about compliance problems;
9	(b) prior violations within the past 3 years;
10	(c) lack of written policies governing employee conduct;
11	(d) multiple violations during the course of the investigation;
12	(e) efforts to conceal a violation;
13	(f) the intentional nature of the violation; or
14	(g) involvement of more than one patron or employee in a violation."

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