

HOUSE BILL NO. 50

INTRODUCED BY T. STEENBERG

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PENALTY PROVISIONS FOR LIQUOR LICENSING BY ADDING NEWER LIQUOR LICENSE TYPES TO THE EXISTING PENALTY PROVISIONS; AMENDING SECTION 16-4-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 16-4-406, MCA, is amended to read:

"16-4-406. Renewal -- suspension or revocation -- penalty -- mitigating and aggravating circumstances. (1) The department shall upon a written, verified complaint of a person request that the department of justice investigate the action and operation of a brewer, winery, wholesaler, or domestic distillery, table wine distributor, beer or wine importer, retailer licensed, or any other person or business licensed or registered under this code.

(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of the licensee or receiving the results of the department of justice's or a local law enforcement agency's investigation, has reasonable cause to believe that a licensee has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed:

- (a) reprimand a licensee;
(b) proceed to revoke the license of the licensee;
(c) suspend the license for a period of not more than 3 months;
(d) refuse to grant a renewal of the license after its expiration; or
(e) impose a civil penalty not to exceed \$1,500.

(3) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

- (a) there have been no violations by the licensee within the past 3 years;
(b) there have been good faith efforts by the licensee to prevent a violation;

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

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17 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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