

HOUSE BILL NO. 483

INTRODUCED BY M. NOLAND

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ACCURATE MEASURING AND REPORTING OF THE QUANTITY OF BEER MANUFACTURED AND SOLD BY A BREWER; CLARIFYING BREWER REPORTING REQUIREMENTS; REQUIRING THE USAGE OF A BEER METERING DEVICE FOR CERTAIN MONTANA BREWERIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-1-406 AND 16-3-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

**"16-1-406. Taxes on beer.** (1) (a) A tax is imposed on each barrel of 31 gallons of beer sold in Montana;

(i) directly to a licensed retailer or sold or otherwise provided in Montana directly to a consumer by an in-state brewer;

(ii) directly to a licensed retailer by an out-of-state brewer, provided that the brewer satisfies the requirements of 16-3-214; and

(iii) by a wholesaler.

(b) A barrel of beer equals 31 gallons. The tax is based upon on the total number of barrels of beer produced by a brewer in a year. A brewer who produces less than 20,000 barrels of beer a year is taxed on the following increments of production:

(i) up to 5,000 barrels, \$1.30;

(ii) 5,001 barrels to 10,000 barrels, \$2.30; and

(iii) 10,001 barrels to 20,000 barrels, \$3.30.

~~(b)(c)~~ The tax on beer sold for a brewer who produces over 20,000 barrels is \$4.30.

(2) The tax imposed pursuant to subsection (1) must be reported to the department and is due at the end of each month on a monthly basis from:

(a) an in-state brewer on beer sold directly to a licensed retailer in Montana and beer sold or otherwise provided directly to a consumer in Montana;

(b) an out-of-state brewer on beer sold directly to a licensed retailer in Montana, provided that the brewer

1 satisfies the requirements of 16-3-214; and

2 (c) the wholesaler upon on beer sold by the wholesaler during that month.

3 (3) The department shall compute the tax due on beer sold in containers other than barrels or in barrels  
4 of more or less capacity than 31 gallons.

5 (3)(4) Each quarter, in accordance with the provisions of 17-2-124, of the tax collected pursuant to  
6 subsection (1), an amount equal to:

7 (a) 23.26% must be deposited in the state treasury to the credit of the department of public health and  
8 human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency; and

9 (b) the balance must be deposited in the state general fund.

10 (5) As used in this section, the term "directly" means that a licensed wholesaler was not used in the  
11 transaction. A wholesaler is responsible for payment of tax for all beer sold by the wholesaler."

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13 **Section 2.** Section 16-3-211, MCA, is amended to read:

14 **"16-3-211. Monthly report of brewer, beer importer, or retailer -- inspection of books and**

15 **premises.** (1) Every brewer and every beer importer licensed to do business in this state shall, on or before the  
16 15th day of each month, as prescribed by the department, make an exact return to the department of the amount  
17 of beer manufactured or imported by the brewer or importer, the amount sold by the brewer or importer in the  
18 previous month, and the inventory of the brewer or importer. The department may make an examination of any  
19 brewer's or beer importer's books and of the brewer's or importer's premises and otherwise check the accuracy  
20 of any return or check the alcoholic content of beer manufactured or imported by the brewer or importer.

21 (2) (a) A brewer located in the state of Montana that does not sell exclusively to wholesalers shall  
22 accurately measure the quantity of beer transferred from the brewer's bright tanks through the usage of beer  
23 meters. The measurements taken from the beer meters must be used to determine the brewer's tax liability by  
24 converting beer production into the amount of beer sold.

25 (b) A beer meter must have an error rate that is equal to or less than plus or minus 0.5%. If the  
26 department has reason to believe that the accuracy or reliability of a meter is not being properly maintained, it  
27 may require the brewer to test the meter and, if necessary, adjust or repair the meter.

28 (2)(3) Every retailer licensed to do business in this state shall, on or before the 15th day of each month,  
29 as prescribed by the department, make an exact return to the department of the amount of beer purchased in the  
30 previous month directly from any brewery not located in the state of Montana.

1 (4) The department shall adopt rules to implement the provisions of this section. The rules may establish:

2 (a) the type of meters that are approved for use by a brewer;

3 (b) recordkeeping and reporting requirements for the purpose of converting beer production into the  
4 amount of beer sold;

5 (c) a percentage-based reduction to the amount reported in order to account for spillage, evaporation,  
6 and loss allowances, not to exceed industry standards;

7 (d) maintenance and testing requirements to ensure accuracy and reliability of beer metering; and

8 (e) any further information necessary for the department to regulate and tax beer manufactured by a  
9 brewer through a metering device.

10 (5) (a) As used in this section, "bright tank" means the last vessel in which beer is held before:

11 (i) consumption by an individual in a sample room;

12 (ii) being placed in a keg, bottle, or can for consumption by an individual; or

13 (iii) being removed for additional fermentation and aging in a cask or barrel.

14 (b) The term may also be commonly referred to as a conditioning tank, serving tank, or secondary tank."  
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16 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.  
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18 NEW SECTION. Section 4. Applicability. [This act] applies to the manufacturing, sale, or distribution  
19 of beer beginning after December 31, 2017.  
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