

1 SENATE BILL NO. 356

2 INTRODUCED BY E. BUTTREY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS PERTAINING TO RETAIL ALCOHOL LICENSEES
5 TO ALLOW FOR BREW PUB AND DISTILLERY ENDORSEMENTS; ALLOWING RETAIL BEER AND WINE
6 AND ALL-BEVERAGES LICENSEES TO BREW BEER AT THE LICENSED LOCATION; PROVIDING THAT THE
7 BREW PUB ENDORSEMENT IS INDEPENDENT OF THE BREWER OR BREWERY LICENSE; ALLOWING
8 ALL-BEVERAGES LICENSEES TO HOLD A DISTILLER ENDORSEMENT; PROVIDING AN ACTIVATION AND
9 ANNUAL ENDORSEMENT FEE; AND AMENDING SECTION 16-4-402, MCA."

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

12
13 **NEW SECTION. Section 1. Brew pub endorsement -- beer and wine -- all-beverages license. (1)**

14 A person who holds an on-premises retail beer and wine license under Title 16, chapter 4, part 1, or an
15 on-premises retail all-beverages license under Title 16, chapter 4, part 2, may, upon approval of the department,
16 be granted a brew pub endorsement. A brew pub endorsement allows a licensee to brew and sell the brewed
17 beer at the licensed location. The same entity must be listed on the brew pub endorsement as the retail beer and
18 wine license or all-beverages license.

19 (2) A brew pub endorsement under this section is separate from a brewer or brewery license and is not
20 subject to the prohibition against a licensed retailer holding a brewery license in 16-3-213. A brew pub
21 endorsement must meet applicable federal laws applying to the brewing of beer. A licensee with a brew pub
22 endorsement may sell brewed beer at the licensed location during the location's hours of operation.

23 (3) A person who holds a brew pub endorsement is responsible for taxes on production as provided in
24 16-1-406 and 16-1-409.

25 (4) A licensed brewer may not hold a brew pub endorsement unless the brewer relinquishes the brewer
26 license and acquires a retail all-beverages or beer and wine license.

27 (5) A brew pub endorsement allows the licensee to self-distribute brewed products to the licensed
28 location. Licensees with a brew pub endorsement may sell brewed products to beer distributors.

29 (6) A person who holds an on-premises all-beverages license may hold a brew pub endorsement and
30 a distiller endorsement as provided in [section 2].

1 (7) A written application for a brew pub endorsement and an activation fee of \$250 must be submitted
2 to the department for its approval. A year after approval and for each subsequent year the endorsement is active,
3 an annual fee of \$250 must be submitted to the department. The department shall deposit fees under this section
4 as provided in 16-2-108.

5
6 **NEW SECTION. Section 2. Distiller endorsement -- all-beverages license.** (1) A person who holds
7 a retail on-premises all-beverages license under Title 16, chapter 4, part 2, may, upon approval of the
8 department, be granted a distiller endorsement. A distiller endorsement allows a licensee to distill, rectify, bottle,
9 and process liquor at the licensed location. The same entity must be listed on the distiller endorsement as the
10 retail beer and wine license or all-beverages license.

11 (2) A distiller endorsement under this section is separate from a distillery license, but the person holding
12 the distiller endorsement must be authorized under the provisions of the Federal Alcohol Administration Act, 27
13 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee with a distiller endorsement may
14 sell distilled products at the licensed location during the location's hours of operation.

15 (3) A person who holds a distiller endorsement is responsible for taxes as provided in 16-1-401,
16 16-1-404, and 16-1-424.

17 (4) A licensed distiller may not hold a distiller endorsement unless the licensed distiller relinquishes the
18 distiller license and acquires a retail all-beverages license.

19 (5) A distiller endorsement allows the licensee to self-distribute distilled, rectified, bottled, and processed
20 liquor products to the licensed location. Licensees with a distiller endorsement may sell products to the state and
21 may deliver to agency liquor stores directly as provided in 16-4-311.

22 (6) A person who holds an on-premises all-beverages license may hold a distiller endorsement and a
23 brew pub endorsement as provided in [section 1].

24 (7) A written application for a distiller endorsement and an activation fee of \$250 must be submitted to
25 the department for its approval. A year after approval and for each subsequent year the endorsement is active,
26 an annual fee of \$250 must be submitted to the department. The department shall deposit fees under this section
27 as provided in 16-2-108.

28
29 **Section 3.** Section 16-4-402, MCA, is amended to read:

30 **"16-4-402. Application -- investigation.** (1) Prior to the issuance of a license under this chapter, the

1 applicant shall file with the department an application containing information and statements relative to the
2 applicant and the premises where the alcoholic beverage is to be sold as required by the department.

3 (2) (a) Upon receipt of a completed application for a license under this code, accompanied by the
4 necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a
5 thorough investigation of all matters relating to the application. Based on the results of the investigation or on
6 other information, the department shall determine whether:

7 (i) the applicant is qualified to receive a license;

8 (ii) the applicant's premises are suitable for the carrying on of the business; and

9 (iii) the requirements of this code and the rules promulgated by the department are met and complied
10 with.

11 (b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(2),
12 a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided
13 in 16-4-301. However, this subsection (2) applies to a brew pub endorsement for an all-beverages or beer and
14 wine license as provided in [section 1] or a distiller license for an all-beverages license as provided in [section
15 2].

16 (c) For an original license application and an application for transfer of location of a license, the
17 department of justice's investigation and the department's determination under this subsection (2) must be
18 completed within 90 days of the receipt of a completed application. If information is requested from the applicant
19 by either department, the time period in this subsection (2)(c) is tolled until the requested information is received
20 by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in
21 the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly
22 constructed. The basis for the tolling of the deadline must be documented.

23 (3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any
24 part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for
25 the license may be denied, and if issued, the license may be revoked.

26 (b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a
27 governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis
28 of a false statement for a denial or revocation of a license.

29 (4) The department shall issue a conditional approval letter upon the last occurrence of either:

30 (a) completion of the investigation and determination provided for in subsection (2) if the department has

- 1 not received information that would cause the department to deny the application; or
- 2 (b) a final agency decision that either denies or dismisses a protest against the approval of an application
- 3 pursuant to 16-4-207.
- 4 (5) The conditional approval letter must state the reasons upon which the future denial of the application
- 5 may be based. The reasons for denial of the application after the issuance of the conditional approval letter are
- 6 as follows:
- 7 (a) there is false or erroneous information in the application;
- 8 (b) the premises are not approved by local building, health, or fire officials;
- 9 (c) there are physical changes to the premises that if known prior to the issuance of the conditional
- 10 approval letter would have constituted grounds for the denial of the application or denial of the issuance of the
- 11 conditional approval; or
- 12 (d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the
- 13 department's final agency decision provided for in subsection (4)."

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15 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified

16 as an integral part of Title 16, and the provisions of Title 16 apply to [sections 1 and 2].

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