

HOUSE BILL NO. 250

INTRODUCED BY K. HOLMLUND

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A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE CONDITIONS FOR A WINERY TO SELL UNDER SPECIAL EVENT PERMITS; AMENDING SECTIONS 16-3-103, 16-4-301, 16-4-501, AND 16-4-1002, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 16-3-103, MCA, is amended to read:

"16-3-103. Unlawful sales solicitation or advertising -- exceptions. (1) A person within the state may not:

(a) canvass for, receive, take, or solicit orders for the purchase or sale of any liquor or act as agent or intermediary for the sale or purchase of any liquor or be represented as an agent or intermediary unless permitted to do so under rules that are promulgated by the department to govern the activities;

(b) canvass for or solicit orders for the purchase or sale of any beer or malt liquor except in the case of beer proposed to be sold to beer licensees duly authorized to sell beer under the provisions of this code;

(c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of advertisement or any other announcement, publication, or price list of or concerning liquor or where or from whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department and then only in accordance with the rules.

(2) This section does not apply to:

(a) the department, any act of the department, any agency liquor store;

(b) the receipt or transmission of a telegram or letter by any telegraph agent or operator or post-office employee in the ordinary course of employment as the agent, operator, or employee; or

(c) the sale and serving of beer in the grandstand and bleacher area of a county fairground or public sports arena under a special permit issued pursuant to 16-4-301 or a catering endorsement issued pursuant to 16-4-111 or 16-4-204; or

(d) the sale and serving of wine by a winery under a special permit issued pursuant to 16-4-301."

1 **Section 2.** Section 16-4-301, MCA, is amended to read:

2 **"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and**
3 **issuance.** (1) (a) An organization or institution that has a tax-exempt designation under the provisions of section
4 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended, that is organized and operated to raise
5 funds for a needy person or that is an accredited Montana postsecondary school and that conducts a special
6 event may receive a special permit to sell beer and table wine to the patrons of that special event. An organization
7 may receive up to three special permits a year.

8 (b) A civic league or organization that has a tax-exempt designation under section 501(c)(4) of the
9 Internal Revenue Code, 26 U.S.C. 501(c)(4), as amended, or an organization authorized by an accredited
10 Montana postsecondary school to engage in fundraising activities for intercollegiate athletics that has a
11 tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C.
12 501(c)(3), as amended, may receive up to 12 special permits a year to sell beer and table wine. For purposes
13 of fundraising activities for intercollegiate athletics, only one organization for each Montana postsecondary school
14 may be authorized to apply for and receive special permits under this section. All net earnings from the sale of
15 beer and table wine must be contributed to the state of Montana or a political subdivision of the state or must be
16 devoted to purposes required of entities under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C.
17 501(c)(3), as amended.

18 (c) An association or corporation engaged in professional sporting contests or junior hockey contests
19 may receive one special permit to sell beer and table wine covering the entire season of play if:

20 (i) the association or corporation is sanctioned by a sports organization that regulates the specific sport;

21 (ii) the season of play of the sport is specified in advance;

22 (iii) an admission fee to the contests is charged; and

23 (iv) the contest events are held in facilities that provide seating for at least 1,000 patrons.

24 (d) A chamber of commerce or business league that has a tax-exempt designation under section
25 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(6), as amended, may receive up to 12 special permits
26 a year to sell beer and table wine. A chamber of commerce may not use one of its special permits for an event
27 conducted by a business league, and a business league may not use one of its permits for an event conducted
28 by a chamber of commerce. The chamber of commerce or business league receiving a special permit shall obtain
29 liquor liability insurance for any event it conducts.

30 (e) A winery licensed under 16-4-107 may receive up to 25 special permits a year to sell table wine to

1 patrons at a special event. The wine sold under this subsection (1)(e) may be consumed at the time of the special
 2 event within the enclosed area where the special event is held or sold in sealed containers for later consumption.
 3 A special permit under this section is for a 24-hour period, ending at 2 a.m., and may be used for consecutive
 4 days or weekends.

5 ~~(e)(2)~~ Except as provided in subsection (1)(e), the beer and wine sold under this subsection (1) must
 6 be consumed at the time when and within the enclosure where the special event, activity, or sporting contest is
 7 held.

8 ~~(f)(3)~~ (a) An application for a special permit must be presented 3 days in advance, but the department
 9 may, for good cause, waive the 3-day requirement.

10 (b) The application must describe the location of the enclosure where the special event, activity, or
 11 sporting contest is to be held, the nature of the special event, activity, or sporting contest, and the period during
 12 which it is contemplated that the special event, activity, or sporting contest will be held. An application for a permit
 13 for professional sporting contests or junior hockey contests under subsection (1)(c) must provide the inclusive
 14 dates of the season of play for the sporting contest.

15 (c) The application must be accompanied by the amount of the permit fee and a written statement of
 16 approval of the premises where the special event, activity, or sporting contest is to be held issued by the local
 17 law enforcement agency that has jurisdiction over the premises.

18 ~~(g)(4)~~ (a) A special permit issued under this subsection (1) for the purpose of selling and serving beer
 19 at a special event, activity, or sporting contest conducted on the premises of a county fairground or public sports
 20 arena authorizes the permit holder to sell and serve beer in the grandstand and bleacher area of the premises,
 21 as well as from a booth, stand, or other fixed place on the premises.

22 (b) A special permit issued under subsection (1)(e) for the purpose of selling wine at a special event
 23 includes permission to sell at public events like farmer's markets or county fairs if:

24 (i) permitted by local ordinance;

25 (ii) the winery holding the special permit has obtained liquor liability insurance;

26 (iii) the winery holding the special permit uses the winery's own equipment, trucks, and employees to
 27 deliver the wine to the special event and the wine delivered pursuant to this subsection (4)(b) does not exceed
 28 4,500 cases a year; and

29 (iv) the winery holding the special permit has trained servers at the special event as provided in
 30 16-4-1006.

1 ~~(h)~~(5) For the purposes of this subsection (1), a post of a nationally chartered veterans' organization or
 2 a lodge of a recognized national fraternal organization otherwise licensed under this code is an organization that
 3 may receive special permits for three special events a year, as described in subsection (1)(a), to sell beer and
 4 table wine. All net proceeds must go to the post or lodge acquiring the special permit.

5 ~~(2)~~(6) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national
 6 fraternal organization not otherwise licensed under this code may receive, without notice or hearing as provided
 7 in 16-4-207, a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at the
 8 post or lodge to members and their guests only, to be consumed within the hall or building of the post or lodge.

9 (b) The application of a nationally chartered veterans' organization or lodge of a recognized national
 10 fraternal organization must describe the location of the hall or building where the special permit will be used and
 11 the date it will be used.

12 (c) The special permit may be issued for a 24-hour period only, ending at 2 a.m., and the department
 13 may not issue more than 12 special permits to any post or lodge during a calendar year."

14

15 **Section 3.** Section 16-4-501, MCA, is amended to read:

16 **"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table wine
 17 only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise
 18 specified in this section, the fee is an annual fee and is imposed as follows:

19 (a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale
 20 within the state, \$500;

21 (ii) for each storage depot, \$400;

22 (b) (i) each beer wholesaler, \$400; each winery, \$200; each table wine distributor, \$400;

23 (ii) for each subwarehouse, \$400;

24 (c) each beer retailer, \$200;

25 (d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer
 26 license;

27 (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction
 28 with beer, \$200;

29 (e) any unit of a nationally chartered veterans' organization, \$50.

30 (2) The permit fee under 16-4-301(1) is computed at the following rate:

1 (a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests,
2 other than those applied for pursuant to 16-4-301(1)(c); and

3 (b) \$1,000 a season for professional sporting contests or junior hockey contests held under the
4 provisions of 16-4-301(1)(c).

5 (3) The permit fee under ~~16-4-301(2)~~ 16-4-301(6) for a post of a nationally chartered veterans'
6 organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code is
7 \$10 for the sale of beer and table wine only or \$20 for the sale of all alcoholic beverages.

8 (4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee
9 in the sum of \$300.

10 (5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to
11 a beer-only license pursuant to 16-4-105, is \$200.

12 (6) The annual renewal fee for:

13 (a) a brewer producing 10,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; and

14 (b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license.

15 (7) Except as provided in this section, each licensee licensed under the quotas of 16-4-201 shall pay
16 an annual license fee as follows:

17 (a) for each license outside of incorporated cities and incorporated towns or in incorporated cities and
18 incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans'
19 organization and \$400 for all other licensees;

20 (b) for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or
21 within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed
22 to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for
23 all other licensees;

24 (c) for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or
25 within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed
26 to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for
27 all other licensees;

28 (d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5
29 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest
30 boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other

1 licensees;

2 (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns
3 is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary
4 of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the
5 corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license
6 fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant.
7 When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city
8 and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable
9 by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

10 (f) an applicant for the issuance of an original license to be located in areas described in subsections
11 (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's
12 ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000
13 for a license issued. The one-time license fee of \$20,000 may not apply to any transfer or renewal of a license
14 issued prior to July 1, 1974. However, all licenses are subject to the specified annual renewal fees.

15 (8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

16 (9) The annual fee for a retail beer and wine license to the Yellowstone airport is \$400.

17 (10) The annual fee for a special beer and table wine license for a nonprofit arts organization under
18 16-4-303 is \$250.

19 (11) The annual fee for a distillery is \$600.

20 (12) The license fees provided in this section are exclusive of and in addition to other license fees
21 chargeable in Montana for the sale of alcoholic beverages.

22 (13) In addition to other license fees, the department of revenue may require a licensee to pay a late fee
23 of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary
24 date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the
25 licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1
26 year and 2 months after the licensee's anniversary date.

27 (14) All license and permit fees collected under this section must be deposited as provided in 16-2-108."
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29 **Section 4.** Section 16-4-1002, MCA, is amended to read:

30 **"16-4-1002. Legislative intent.** It is the intent of this part that retail establishments and manufacturers

1 licensed to sell or serve alcoholic beverages to the public ensure that all licensees and their employees that sell
2 or serve alcoholic beverages are appropriately trained to comply with state law prohibiting the sale or service of
3 alcoholic beverages to persons under 21 years of age and to persons who are intoxicated. ~~This~~ Except for special
4 event permits held by wineries as provided in 16-4-301(4)(b), this part does not apply to special permits issued
5 under 16-4-301."

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7 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2019.

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