

1 HOUSE BILL NO. 97  
2 INTRODUCED BY E. BUTTREY  
3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS;  
6 REMOVING GLASSWARE AND CUPS FROM PROHIBITIONS ON THE FURNISHING OF FIXTURES OR  
7 ADVERTISING MATERIALS TO RETAILERS; ALLOWING LOCAL ORDINANCES TO RESTRICT THE TYPE  
8 OR VARIETY OF ALCOHOLIC BEVERAGES SOLD IN A JURISDICTION; REVISING ALCOHOL LICENSES  
9 PERTAINING TO GOLF COURSES; REVISING LAWS RELATED TO LIQUOR STORE AGENTS AND TABLE  
10 WINE; REVISING DEFINITIONS; AMENDING SECTIONS 16-1-411, 16-3-213, 16-3-233, 16-3-241, 16-3-302,  
11 16-3-309, 16-3-316, AND 16-3-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
14

15 **Section 1.** Section 16-1-411, MCA, is amended to read:

16 **"16-1-411. Tax on wine and hard cider -- penalty and interest.** (1) (a) A tax of 27 cents per liter is  
17 imposed on sacramental wine and table wine, except hard cider, imported by a table wine distributor and on  
18 table wine shipped directly to consumers or licensed retailers by a winery registered or licensed pursuant to 16-  
19 4-107.

20 (b) A tax of 3.7 cents per liter is imposed on hard cider imported by a table wine distributor and on  
21 hard cider shipped directly to licensed retailers by a winery licensed pursuant to 16-4-107.

22 (2) The tax imposed in subsection (1) must be paid as follows:

23 (a) A winery registered pursuant to 16-4-107 that sells more than 1,000 liters of sacramental wine,  
24 table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1  
25 and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay  
26 the tax on a monthly basis on or before the 15th day of each month during the following period that begins  
27 October 1 and ends September 30.

28 (b) A winery registered pursuant to 16-4-107 that sells 1,000 liters or less of sacramental wine,

1 table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1  
2 and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay  
3 the tax on or before October 15 of the following period that begins October 1 and ends September 30.

4 (c) A winery licensed pursuant to 16-4-107 that sells sacramental wine, ~~table wine~~, or hard cider to  
5 consumers or licensed retailers in the state or that sells table wine to agency liquor stores for sale to consumers  
6 in the state shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a  
7 monthly basis on or before the 15th of each month for sales in the previous month.

8 (d) A table wine distributor that sells sacramental wine, table wine, or hard cider in the state shall  
9 electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a monthly basis on or  
10 before the 15th day of each month for sales in the previous month.

11 (3) Failure to electronically file a tax return or failure to pay the tax required by this section subjects  
12 the winery or the table wine distributor to the penalties and interest provided for in 15-1-216.

13 (4) The tax paid by a winery or by a table wine distributor in accordance with subsection (2) must,  
14 in accordance with the provisions of 17-2-124, be distributed as follows:

15 (a) 69% to the state general fund; and

16 (b) 31% to the state special revenue fund to the credit of the department of public health and  
17 human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

18 (5) The tax computed and paid in accordance with this section is the only tax imposed by the state  
19 or any of its subdivisions, including cities and towns.

20 (6) For purposes of this section, "table wine" has the meaning assigned in 16-1-106, but does not  
21 include hard cider."

22

23 **Section 2.** Section 16-3-213, MCA, is amended to read:

24 **"16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions.** (1) Except  
25 as provided for small breweries in subsection (2), it is unlawful for any brewer or breweries or beer importer to  
26 have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit  
27 brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries  
28 from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

1 **importers, and wholesalers unlawful -- exceptions.** (1) (a) It is unlawful for any brewer, beer importer, or  
2 wholesaler to lease, furnish, give, or pay for any premises, furniture, fixtures, equipment, or any other  
3 advertising matter or any other property to a retail licensee, used or to be used in the dispensation of beer in  
4 and about the interior of the place of business of the licensed retailer, or to furnish, give, or pay for any repairs,  
5 improvements, or painting on or within the premises.

6 (b) ~~It is lawful for a~~ A brewer, beer importer, or wholesaler to may furnish, give, or loan to a retail  
7 licensee:

8 (i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, ~~glassware, cups,~~  
9 napkins, or other functional advertising matter that does not exceed \$300 in value in any 1 calendar year to any  
10 one retail establishment for display use within the interior of the retail establishment;

11 (ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each  
12 brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place  
13 of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name,  
14 trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture.  
15 Any beer advertised must be available for sale on the retailer's premises at the time the displays are used  
16 unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or wholesaler, a  
17 display has been in the retailer's possession for more than 9 months.

18 (iii) permanent or temporary advertising matter of a decorative nature, excluding items described in  
19 subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and

20 (iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working  
21 condition.

22 (2) A wholesaler may furnish portable equipment used for the temporary cooling, handling, and  
23 dispensing of beer to a special permittee or a retailer for use:

24 (a) in catering an event that is off the permittee's or retailer's regular premises; or

25 (b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours."  
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27 **Section 5.** Section 16-3-302, MCA, is amended to read:

28 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to

1 sell and serve beer, either on draught ~~draft~~ or in containers, to the public to be consumed on the premises of  
2 the retailer.

3 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf  
4 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under  
5 16-4-109 to sell beer and wine:

6 (a) in the building or other structural premises constituting the clubhouse or primary indoor  
7 recreational quarters of the golf course; and

8 (b) for a fee in an additional building or other structure, one per 18-9 holes of the golf course, that  
9 is designed to serve golfers during the course of play; and

10 (c) at any place within the boundaries of the golf course, from a portable satellite vehicle or other  
11 movable satellite device that is moved from place to place, ~~whether inside or outside of a building or other~~  
12 ~~structure.~~

13 (3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place  
14 within the boundaries of the golf course, whether inside or outside of a building or other structure."  
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16 **Section 6.** Section 16-3-309, MCA, is amended to read:

17 **"16-3-309. Sales prohibited by ordinance.** (1) An incorporated city may enact an ordinance defining  
18 certain areas in its incorporated limits where alcoholic beverages may or may not be sold. The ordinance may  
19 limit by type or variety of alcoholic beverage.

20 (2) A county may enact an ordinance or resolution defining certain areas in the county, not within  
21 the incorporated limits of a city, where alcoholic beverages may or may not be sold. The ordinance may limit by  
22 type or variety of alcoholic beverage.

23 (3) In enacting ~~such an~~ ordinance or resolution under subsection (1) or (2), the county or city may  
24 provide that the provisions of 16-3-306(1) do not apply within the jurisdictional area of the ordinance or  
25 resolution. If a county or city has supplanted the provisions of 16-3-306(1), ~~upon~~on request of the department  
26 the governing body of the county or city must certify to the department whether or not the person or individual  
27 identified in the request may lawfully sell alcoholic beverages under the terms of the ordinance or resolution.  
28 The department is bound by the determination set forth in the certification.