

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 16-3-213, 16-3-233, 16-3-241, 16-3-302, 16-3-309,
11 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 16-3-213, MCA, is amended to read:

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

21 (2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual
22 nationwide production of not ~~less than 100 barrels or~~ more than 60,000 barrels, including:

23 (i) the production of all affiliated manufacturers; and

24 (ii) beer purchased from any other beer producer to be sold by the brewery.

25 (b) A small brewery may, at one location for each brewery license and at no more than three
26 locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the
27 premises in a sample room located on the licensed premises. The samples may be provided with or without
28 charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or

1 to serve golfers during the course of play; and

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

5 (3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place
6 within the boundaries of the golf course, whether inside or outside of a building or other structure."
7

8 **Section 5.** Section 16-3-309, MCA, is amended to read:

9 **"16-3-309. Sales prohibited by ordinance.** (1) An incorporated city may enact an ordinance defining
10 certain areas in its incorporated limits where alcoholic beverages may or may not be sold. The ordinance may
11 limit by type or variety of alcoholic beverage.

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

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

21 (4) No county or incorporated city may by ordinance restrict the number of licenses that the
22 department may issue."
23

24 **Section 6.** Section 16-3-316, MCA, is amended to read:

25 **"16-3-316. Fundraising events for nonprofit and tax-exempt organizations.** (1) A nonprofit
26 organization governed under Title 35, chapter 2, or an organization designated as tax-exempt under the
27 provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended, may raffle or auction
28 alcoholic beverages at fundraising events. Any alcoholic beverage raffled or auctioned must be given by the

1 organization to the raffle or auction winner sealed in its original package.

2 (2) If the fundraising event is held on the premises of a business licensed under this code or on
3 premises for which a permit has been issued under this code, the alcoholic beverage may not be consumed on
4 the premises. An alcoholic beverage that is on a licensee's premises solely for a fundraising event under this
5 section does not constitute a violation by the licensee of 16-3-301(1) or 16-6-303.

6 (3) A nonprofit or tax-exempt organization may hold no more than four events per calendar year at
7 which alcoholic beverages are raffled or auctioned. The duration of each event must be announced at the time
8 any raffle tickets are sold or auction bids are received. Raffles and auctions held pursuant to this section must
9 be to directly support bona fide charitable, nonprofit, or tax-exempt activities.

10 (4) An alcoholic beverage for raffle or auction must be:

11 (a) acquired, whether by purchase or donation, by the organization from a retailer or manufacturer
12 licensed under the provisions of this code, ~~excluding a restaurant beer and wine licensee;~~

13 (b) ~~purchased~~ acquired, whether by purchase at not less than the posted price or donation, by the
14 organization from an agency liquor store ~~at not less than the posted price;~~ or

15 (c) received by the organization as a donation at no cost to the organization from any other person
16 ~~except one licensed as a wholesaler or distributor under this code~~ except one licensed as a wholesaler or
17 distributor under this code.

18 (5) No proceeds from the raffle or auction of alcoholic beverages may go to anyone who provided
19 the alcoholic beverages to the organization for the raffle or auction.

20 (6) For a raffle or auction described in subsection (1), raffle tickets may not be sold to, and auction
21 bids may not be solicited or received from, any person under 21 years of age. The organization raffling or
22 auctioning alcoholic beverages may not sell, deliver, or give away any alcoholic beverage to a person under 21
23 years of age or to any person actually, apparently, or obviously intoxicated.

24 (7) As used in this section:

25 (a) "auction" means the sale of an item or items, which may include alcoholic beverages, whereby
26 the item for sale is sold to the highest bidder at the bid price. An auctioned item or items may have a reserve
27 price.

28 (b) "raffle" means an event in which a nonprofit or tax-exempt organization sells tickets and each

1 ticket gives the purchaser of the ticket the chance to win a prize, which may include alcoholic beverages, with
2 the winner determined by a random drawing."
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4 **Section 7.** Section 16-3-411, MCA, is amended to read:

5 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

- 6 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;
- 7 (b) sell table wine it produces at wholesale to table wine distributors or liquor store agents;
- 8 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off
9 the premises;
- 10 (d) provide, without charge, wine it produces for consumption at the winery;
- 11 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine
12 it produces;
- 13 (f) obtain a special event permit under 16-4-301;
- 14 (g) perform those operations and cellar treatments that are permitted for bonded winery premises
15 under applicable regulations of the United States department of the treasury;
- 16 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy
17 of the license;
- 18 (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part
19 11, directly to an individual in Montana who is at least 21 years of age; or
- 20 (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between
21 8 a.m. and 2 a.m.

22 (2) (a) A winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery
23 directly to licensed retailers or liquor store agents if the winery:

- 24 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine
25 delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 9-liter cases a year;
- 26 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the
27 retailer or liquor store agent; or
- 28 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer or liquor