

Amendment - 1st Reading-white - Requested by: Ellie Boldman - Free Conference Committee on HB 539

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

HB0539.003.004

1 HOUSE BILL NO. 539

2 INTRODUCED BY K. ZOLNIKOV

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS;
5 ALLOWING AN ALCOHOLIC BEVERAGES LICENSEE TO OPERATE A GUEST RANCH OR SIMILAR
6 BUSINESS AND SERVE ALCOHOL AT THE PREMISES; REVISING DEFINITIONS; REVISING LAWS
7 RELATED TO LICENSE LAPSE; REVISING LAWS RELATING TO MONTANA DISTILLERY AND BREWERY
8 HOURS OF OPERATION; AMENDING SECTIONS 16-1-106, 16-3-213, ~~AND 16-3-302~~, ~~AND 16-3-311~~, AND
9 16-4-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

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

12

13 **Section 1.** Section 16-1-106, MCA, is amended to read:

14 **"16-1-106. Definitions.** As used in this code, the following definitions apply:

15 (1) "Agency franchise agreement" means an agreement between the department and a person
16 appointed to sell liquor and table wine as a commission merchant rather than as an employee.

17 (2) "Agency liquor store" means a store operated under an agency franchise agreement in
18 accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises
19 consumption.

20 (3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

21 (4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink
22 that contains more than 0.5% of alcohol by volume.

23 (5) (a) "Beer" means:

24 (i) a malt beverage containing not more than 8.75% of alcohol by volume; or

25 (ii) an alcoholic beverage containing not more than 14% alcohol by volume:

26 (A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both,
27 in potable brewing water, of malted cereal grain; and

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1 ~~(35)~~(36) "Wine" means an alcoholic beverage made from or containing the normal alcoholic
2 fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except
3 as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not
4 more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and
5 fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other
6 alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as
7 wine in accordance with federal regulations are also wine."
8

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

10 **"16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions.** (1) Except
11 as provided for small breweries in subsection (2), it is unlawful for any brewer or breweries or beer importer to
12 have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit
13 brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries
14 from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

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

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

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

19 (b) A small brewery may, at one location for each brewery license and at no more than three
20 locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the
21 premises in a sample room located on the licensed premises. The samples may be provided with or without
22 charge between the hours of 10 a.m. and 8-10 p.m. No more than 48 ounces of malt beverage may be sold or
23 given to each individual customer during a business day for consumption on the premises or in prepared
24 servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's
25 sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises
26 consumption including all affiliated manufacturers.

27 (3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

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- 1 (a) that one or more members of the manufacturing entity have more than a majority share interest
2 in or that controls directly or indirectly another beer manufacturing entity;
- 3 (b) for which the business operations conducted between or among entities are interrelated or
4 interdependent to the extent that the net income of one entity cannot reasonably be determined without
5 reference to operations of the other entity; or
- 6 (c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or
7 logos are identical or nearly identical."

8

9 **Section 3.** Section 16-3-302, MCA, is amended to read:

10 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to
11 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the
12 retailer.

13 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf
14 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under
15 16-4-109 to sell beer and wine:

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

18 (b) at any place within the boundaries of the golf course, from a portable satellite vehicle or other
19 movable satellite device that is moved from place to place, whether inside or outside of a building or other
20 structure.

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

23 (4) (a) It is lawful for a licensee who has an all-beverages license or has a retail license issued
24 under ~~16-4-104~~ 16-4-105 to sell and serve alcoholic beverages for which the licensee is licensed at a guest
25 ranch or similar business as defined in 16-1-106. The guest ranch or similar business must be owned by the
26 licensee or by a concessionaire with which the licensee has a concession agreement under 16-4-418. For a
27 license operated at a guest ranch or similar business, alcoholic beverages may be served anytime within the

1 (b) The term does not require permanent floor-to-ceiling walls."

2

3 **Section 5.** Section 16-4-312, MCA, is amended to read:

4 **"16-4-312. Domestic distillery.** (1) A distillery located in Montana and licensed pursuant to 16-4-311
5 may:

6 (a) import necessary products in bulk;

7 (b) bottle, produce, blend, store, transport, or export liquor that it produces; and

8 (c) perform those operations that are permitted for bonded distillery premises under applicable
9 regulations of the United States department of the treasury.

10 (2) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to
11 the department under this code, and the department shall include the distillery's liquor as a listed product.

12 (b) The distillery may use a common carrier for delivery of the liquor to the department.

13 (c) A distillery that produces liquor within the state under this subsection (2) shall maintain records
14 of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and
15 prices of liquor that it ships to the department and other information that the department may determine to be
16 necessary to ensure that distribution of liquor within this state conforms to the requirements of this code.

17 (3) A microdistillery may:

18 (a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the
19 microdistillery to consumers for prepared servings;

20 (i) ~~_____ though through~~ curbside pickup between 10 a.m. and 8 p.m.; and

21 (ii) ~~_____ or consumption on the premises~~ for on-premises consumption during the hours of operation
22 that are identical to those allowed for a brewery license provided for in 16-3-213(2)(b) and corresponding
23 administrative rules relating to the service, consumption, and possession of alcoholic beverages on the
24 premises between 10 a.m. and 8 p.m.; or

25 (b) sell liquor in original packaging that it produces at retail at the distillery between the hours of 8
26 a.m. and 2 a.m. directly to the consumer, including curbside pickup, for off-premises consumption if:

27 (i) not more than 4.754.5 liters a day is sold to an individual; and

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1 (ii) the minimum retail price as determined by the department is charged."
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4 **NEW SECTION. Section 6. Transition.** The department shall revise its administrative
5 rules implementing 16-3-213 and 16-4-312 or any other applicable statute to include sample room hours
6 of operations that are identical for Montana distilleries and breweries. The intent of this act is to:

7 (1) make the hours of operation for service to and consumption and possession of alcohol by
8 consumers at breweries and distilleries equal; and

9 (2) allow for a consumptive hour at both Montana distilleries and breweries after consumers are
10 served at 10 p.m.
11

12 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.
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