

**Amendment - 1st Reading-white - Requested by: Jason Small - Free Conference Committee
on HB 539**

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

HB0539.003.005

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; ALLOWING LICENSED
7 RETAILERS TO PURCHASE BEER AND TABLE WINE FROM LICENSED IN-STATE RETAILERS AND
8 PROVIDING LIMITATIONS; REVISING LAWS RELATED TO LICENSE LAPSE; AMENDING SECTIONS 16-1-
9 106, 16-3-301, AND 16-3-302, AND 16-3-311, 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 16-3-301, MCA, is amended to read:

10 **"16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age.** (1) It
11 is unlawful for a licensed retailer to purchase or acquire beer or wine from anyone except a brewery, winery, or
12 wholesaler licensed under the provisions of this code except as allowed in 16-4-213(8).

13 (2) It is unlawful for a licensed retailer to transport beer or wine from one licensed premises or
14 other facility to any other licensed premises owned by the licensee except as allowed in 16-4-213(8).

15 (3) It is unlawful for a licensed retailer to purchase or acquire liquor from anyone except an agency
16 liquor store except as allowed in 16-4-213(8).

17 (4) It is unlawful for a licensed wholesaler to purchase beer or wine from anyone except a brewery,
18 winery, or wholesaler licensed or registered under this code.

19 (5) It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or
20 give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

21 (a) any person under 21 years of age; or

22 (b) any person actually, apparently, or obviously intoxicated.

23 (6) Any person under 21 years of age or any other person who knowingly misrepresents the
24 person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with
25 the licensee and, upon conviction, is subject to the penalty provided in 45-5-624. However, nothing in this
26 section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in
27 violation of any federal law.

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1 (7) All licensees shall display in a prominent place in their premises a placard, issued by the
2 department, stating fully the consequences for violations of the provisions of this code by persons under 21
3 years of age.

4 (8) For purposes of 45-5-623 and this title, the establishment of the following facts by a person
5 making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of
6 innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

7 (a) the purchaser falsely represented and supported with documentary evidence that an ordinary
8 and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages;

9 (b) the appearance of the purchaser was such that an ordinary and prudent person would believe
10 the purchaser to be of legal age to purchase alcoholic beverages; and

11 (c) the sale was made in good faith and in reasonable reliance upon the representation and
12 appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages.

13 (9) A licensed retailer may purchase beer and table wine from a licensed in-state retailer and
14 transport the purchased beer and table wine to the licensed retailer's premises. The department may penalize
15 retailers purchasing beer and table wine from out-of-state retailers subject to this code. Purchases under this
16 subsection are limited to a maximum of 6 gallons a day. (See compiler's comments for contingent termination of
17 certain text.)"

18
19 **Section 3.** Section 16-3-302, MCA, is amended to read:

20 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to
21 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the
22 retailer.

23 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf
24 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under
25 16-4-109 to sell beer and wine:

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