

1 HOUSE BILL NO. 871
2 INTRODUCED BY S. ESSMANN, C. KNUDSEN, B. MITCHELL, R. MARSHALL, C. HINKLE, J. ETCHART, Z.
3 WIRTH, N. NICOL
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN OFF-PREMISES ALL-BEVERAGES LICENSE;
6 AMENDING CERTAIN OFF-PREMISES LICENSES; PROVIDING RESTRICTIONS ON THE SALE OF
7 ALCOHOL AT THE PREMISES; PROVIDING FEES; AND AMENDING SECTIONS 16-3-306, 16-3-310, 16-4-
8 115, 16-4-402, AND 16-4-501, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 16-3-306, MCA, is amended to read:

13 **"16-3-306. Proximity to churches and schools restricted.** (1) Except as provided in subsections (2)
14 through (4), ~~a~~an on-premises retail license may not be issued pursuant to this code to any business or
15 enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a
16 church, synagogue, or other place of worship or as a school other than a commercially operated or
17 postsecondary school. This distance must be measured in a straight line from the center of the nearest
18 entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a
19 limitation upon the department's licensing authority.

20 (2) However, the department may renew ~~a~~an on-premises license for any establishment located in
21 violation of this section if the licensee does not relocate an entrance any closer than the existing entrances and
22 if the establishment:

- 23 (a) was located on the site before the place of worship or school opened; or
24 (b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since
25 January 1, 1937.

26 (3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or ~~both~~liquor in the
27 original package for off-premises consumption.

28 (4) Subsection (1) does not apply within the applicable jurisdiction of a local government that has

1 supplanted the provisions of subsection (1) as provided in 16-3-309."

2

3 **Section 2.** Section 16-3-310, MCA, is amended to read:

4 **"16-3-310. Lapse of license for nonuse.** Any retail license issued pursuant to this code (including
5 any retail license to sell beer, ~~and table wine,~~ or liquor for off-premises consumption) not actually used in a
6 going establishment for 90 days shall automatically lapse. Upon determining the fact of nonuse for such period,
7 the department shall cancel such license of record and no portion of the fee paid therefor shall be refundable.
8 The provisions of this section shall not apply to the license of any licensee whose premises are operated on a
9 seasonal basis in connection with a bona fide dude ranch, resort, park hotel, tourist facility, or like business,
10 provided such licensee has secured written authority from the department to close and has licensed premises
11 for a specified period of greater than 90 days' duration. Should the department determine that such lapse was
12 reasonably beyond the control of the licensee, then the lapse provision shall not apply."

13

14 **Section 3.** Section 16-4-115, MCA, is amended to read:

15 **"16-4-115. Beer and wine licenses Licenses for off-premises consumption.** (1) (a) A retail license
16 to sell beer or table wine, or both, in the original packages for off-premises consumption may be issued only to
17 a person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to
18 sell beer or table wine, or both. If the premises proposed for licensing are operated in conjunction with another
19 business, that business must be a grocery store, convenience store, or drugstore licensed as a pharmacy. The
20 number of licenses that the department may issue is not limited by the provisions of 16-4-105 but must be
21 determined by the department in the exercise of its sound discretion, and the department may in the exercise of
22 its sound discretion grant or deny an application for any license or suspend or revoke any license for cause.

23 (b) A retail license to sell beer, table wine, or liquor in the original packages for off-premises
24 consumption may be issued only to a person, firm, or corporation that is approved by the department as a
25 person, firm, or corporation qualified to sell beer, table wine, or liquor. The premises proposed for licensing
26 must be a grocery store or drugstore licensed as a pharmacy that is at least ~~20,000~~12,000 square feet. The
27 number of licenses that the department may issue is not limited by the provisions of 16-4-201 but must be
28 determined by the department in the exercise of its sound discretion, and the department may in the exercise of

1 its sound discretion, for justifiable reasons under this code, grant or deny an application for any license or
2 suspend or revoke any license for cause.

3 (2) Licensees under this section must have alcohol in a designated alcohol-only area of the store
4 away from similar nonalcoholic products or items that appeal to children. The alcohol area may not exceed 10%
5 of the total square footage of the licensed premises.

6 ~~(2)~~(3) Upon receipt of a completed application for a license under this section, accompanied by the
7 necessary license fee as provided in 16-4-501, the department shall request that the department of justice
8 make a background investigation of all matters relating to the application.

9 ~~(3)~~(4) Based on the results of the investigation or in exercising its sound discretion as provided in
10 subsection (1), the department shall determine whether:

- 11 (a) the applicant is qualified to receive a license;
- 12 (b) the applicant's premises are suitable for the carrying on of the business; and
- 13 (c) the requirements of this code and the rules promulgated by the department are met and
14 complied with.

15 ~~(4)~~(5) License applications submitted under this section are not subject to the provisions of 16-4-203
16 and 16-4-207.

17 ~~(5)~~(6) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in
18 original packaging."

19
20 **Section 4.** Section 16-4-402, MCA, is amended to read:

21 **"16-4-402. Application -- investigation.** (1) Prior to the issuance of a license under this chapter, the
22 applicant shall file with the department an application containing information and statements relative to the
23 applicant and the premises where the alcoholic beverage is to be sold as required by the department.

24 (2) (a) Upon receipt of a completed application for a license under this code, accompanied by the
25 necessary license fee, the department of justice shall make a thorough investigation of all matters relating to
26 the application. Based on the results of the investigation or on other information, the department shall
27 determine whether:

- 28 (i) the applicant is qualified to receive a license; and