

1 SENATE BILL NO. 59
2 INTRODUCED BY S. FITZPATRICK
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS;
6 REVISING LAWS RELATING TO PUBLIC CONVENIENCE AND NECESSITY; PROVIDING THAT PUBLIC
7 CONVENIENCE AND NECESSITY CONSIDERATIONS ARE LIMITED TO CONSIDERATION OF THE
8 ALCOHOLIC BEVERAGE; REVISING LAWS RELATED TO DEPARTMENT REQUESTS FOR ADDITIONAL
9 LICENSING INFORMATION; REVISING LAWS RELATED TO TABLE WINE; REVISING LAWS RELATING
10 TO SPECIAL PERMITS; AND AMENDING SECTIONS 16-3-103, 16-4-203, 16-4-212, 16-4-213, 16-4-207,
11 AND 16-4-301, MCA."
12

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

15 **Section 1.** Section 16-3-103, MCA, is amended to read:

16 **"16-3-103. Unlawful sales solicitation or advertising -- exceptions.** (1) A person within the state
17 may not:

18 (a) canvass for, receive, take, or solicit orders for the purchase or sale of any liquor or act as agent
19 or intermediary for the sale or purchase of any liquor or be represented as an agent or intermediary unless
20 permitted to do so under rules that are promulgated by the department to govern the activities;

21 (b) canvass for or solicit orders for the purchase or sale of any beer or malt liquor except in the
22 case of beer proposed to be sold to beer licensees duly authorized to sell beer under the provisions of this
23 code;

24 (c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of
25 advertisement or any other announcement, publication, or price list of or concerning liquor or where or from
26 whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department
27 and then only in accordance with the rules.

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1 (2) This section does not apply to:

2 (a) the department, any act of the department, any agency liquor store;

3 (b) the receipt or transmission of a telegram or letter by any telegraph agent or operator or post-
4 office employee in the ordinary course of employment as the agent, operator, or employee;

5 (c) the sale and serving of beer and table wine in the grandstand and bleacher area of a county
6 fairground or public sports arena under a special permit issued pursuant to 16-4-301 or a catering endorsement
7 issued pursuant to 16-4-111 or 16-4-204; or

8 (d) the sale of alcohol at a sporting event conducted at a Montana university as provided in 16-4-
9 112."

10

11 **Section 2.** Section 16-4-203, MCA, is amended to read:

12 **"16-4-203. Determination of public convenience and necessity.** (1) An original license issued
13 pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 or the transfer of ownership or location of an on-
14 premises retail license a license issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 may be
15 approved if the department does not receive the minimum number of protests required for a public convenience
16 and necessity determination pursuant to 16-4-207, in which case the application must be regarded as a prima
17 facie showing of public convenience and necessity and no further determination of public convenience and
18 necessity is allowed.

19 (2) (a) If the department receives at least the minimum number of protests required for a public
20 convenience and necessity determination, as provided in 16-4-207, an application must be approved when
21 evidence indicates that the issuance of an original license or transfer of location will materially promote the
22 public's ability to engage in the licensed activity.

23 (b) The issuance of an original license or a transfer of location will materially promote the public's
24 ability to engage in the licensed activity if:

25 (i) the applicant's history and experience demonstrate the capacity to operate the proposed
26 license in a lawful manner;

27 (ii) the approval of the application for the premises at the proposed location is consistent with the

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1 public's demand or probable demand for the licensed activity that presently exists or is reasonably expected to
2 exist within the next 5 years in the quota area where the proposed premises is located and in quota areas
3 adjacent to the quota area where the proposed premises is located;

4 (iii) the approval of the application for the premises at the proposed location contributes to the
5 public's ability to participate in the licensed activity throughout the quota area where the proposed premises is
6 located and quota areas adjacent to the quota area where the proposed premises is located;

7 (iv) the approval of the application for the premises at the proposed location is consistent with
8 adopted or pending planning, annexation, and zoning ordinances of local governments that confer or will confer
9 jurisdiction over business and developments such as the proposed license in the quota area where the
10 proposed premises is located and in quota areas adjacent to the quota area where the proposed premises is
11 located.

12 (3) Protests are limited to the operation of the alcoholic beverage license only. Protests related to
13 gambling or other matters will not be considered by the department.

14 ~~(3)~~(4) When determining whether or not an application is justified by public convenience and
15 necessity, the department may:

16 (a) receive evidence at the public hearing specified in 16-4-207 only from the applicant, any
17 protestors whose protests the department has accepted pursuant to 16-4-207, and any other person
18 summoned or called by either a protestor or applicant;

19 (b) find that the application is justified by public convenience and necessity if the applicant has
20 provided substantial credible evidence as provided for in this subsection ~~(3)~~(4) that shows that the
21 department's approval of the application will materially promote the public's ability to engage in the licensed
22 activity. The substantial credible evidence required must include a consideration of each of the components of
23 materially promoting the public's ability to engage in the licensed activity as provided in subsection (2)(b).

24 ~~(4)~~(5) For the purposes of this section, the following definitions apply:

25 (a) "Confer or will confer jurisdiction" means the power or authority that a local government or an
26 appointed subsidiary of a local government has or may obtain within 1 year from the date of the hearing to
27 consider and adopt planning, annexation, or zoning ordinances.

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1 (b) "Licensed activity" means the purchase of alcoholic beverages for on-premises consumption in
2 a business licensed to sell alcoholic beverages at retail for on-premises consumption.

3 (c) "Pending planning, annexation, and zoning ordinances" means the ordinances of a local
4 government or an appointed subsidiary of a local government that were publicly considered within the year
5 preceding the date of the hearing or are presently being considered."
6

7 **Section 3.** Section 16-4-207, MCA, is amended to read:

8 **"16-4-207. Notice of application -- investigation -- publication -- protest.** (1) (a) When an
9 application has been filed with the department for a license to sell alcoholic beverages at retail issued pursuant
10 to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 or to transfer the ownership or location of a retail-license issued
11 pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213, the department shall review the application for
12 completeness and, based ~~upon~~ on review of the application and any other information supplied to the
13 department, determine whether the applicant or the premises to be licensed meets criteria provided by law. The
14 department may make ~~one request~~ requests for additional information necessary to complete the application.
15 The application is considered complete when the applicant furnishes the application information requested by
16 the department. When the application is complete, the department of justice shall investigate the application as
17 provided in 16-4-402. When the department determines that an application for a license under this code is
18 complete, the department shall publish in a newspaper of general circulation in the city, town, or county from
19 which the application comes a notice that the applicant has made application for a retail on-premises license or
20 a transfer of location and that protests may be made against the approval of the application by residents of the
21 county from which the application comes, residents of adjoining Montana counties, or residents of adjoining
22 counties in another state if the criteria in subsection (4)(d) are met. Protests must be mailed to the department
23 within 10 days after the final notice is published. Notice of application for a new license must be published once
24 a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of a license must be
25 published once a week for 2 consecutive weeks.

26 (b) (i) Notice may be substantially in the following form for an applicant without a premises:

27 NOTICE OF APPLICATION FOR RETAIL

1 ALL-BEVERAGES LICENSE

2 Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a
3 retail all-beverages license with the Montana department of revenue to be used within the (quota area).
4 Residents of..... counties may protest against the approval of the application. Each protestor is required to
5 mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each
6 letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing
7 the approval of an application may not be considered as a protest. Protests may be mailed to....., department
8 of revenue, Helena, Montana, on or before the..... day of....., 20.....

9 Dated.....

10 Signed

11

12 (ii) Notice may be substantially in the following form for a premises only:

13 NOTICE OF APPLICATION FOR RETAIL

14 ALL-BEVERAGES LICENSE

15 Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a
16 retail all-beverages license with the Montana department of revenue to be used at (describe location of
17 premises where beverages are to be sold). Residents of..... counties may protest against the approval of the
18 premises location only as notice of protest for the applicant has already occurred. Each protestor is required to
19 mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each
20 letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing
21 the approval of an application may not be considered as a protest. Protests may be mailed to....., department
22 of revenue, Helena, Montana, on or before the..... day of....., 20.....

23 Dated.....

24 Signed

25

26 (iii) Notice may be substantially in the following form for an applicant and premises applied for at
27 the same time or if the location of the license will be floated out of the quota area it was initially noticed in:

1 NOTICE OF APPLICATION FOR RETAIL

2 ALL-BEVERAGES LICENSE

3 Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a
4 retail all-beverages license with the Montana department of revenue to be used at (describe location of
5 premises where beverages are to be sold). Residents of..... counties may protest against the approval of the
6 application. Each protestor is required to mail a letter that contains in legible print the protestor's full name,
7 mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the
8 names and signatures of persons opposing the approval of an application may not be considered as a protest.
9 Protests may be mailed to....., department of revenue, Helena, Montana, on or before the..... day of.....,
10 20.....

11 Dated.....

12 Signed

13

14 (2) Each applicant shall, at the time of filing an application, pay to the department an amount
15 sufficient to cover the costs of publishing the notice. There may be two charges if the applicant applies for
16 licensure prior to applying for a premises under 16-4-417.

17 (3) (a) If the department receives no written protests, the department may approve the application
18 without holding a public hearing.

19 (b) A response to a notice of opportunity to protest an application may not be considered unless
20 the response is a letter satisfying all the requirements contained in the notice in subsection (1).

21 (c) If the department receives sufficient written protests that satisfy the requirements in subsection
22 (1) against the approval of the application, the department shall hold a public hearing as provided in subsection
23 (4).

24 (4) (a) If the department receives at least one protest but less than the number of protests required
25 for a public convenience and necessity determination as specified in subsection (4)(c), the department shall
26 schedule a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient
27 cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the

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1 grounds for denial of an application provided for in 16-4-405, exclusive of public convenience and necessity.

2 The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

3 (b) If the department receives the number of protests required for a public convenience and
4 necessity determination as specified in subsection (4)(c) and the application is for an original license or for a
5 transfer of location, the department shall schedule a public hearing to be held in the county of the proposed
6 location of the license to determine whether the protest presents sufficient cause to deny the application based
7 on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application
8 provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the
9 provisions of Title 2, chapter 4, part 6.

10 (c) The minimum number of protests necessary to initiate a public hearing to determine whether an
11 application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the
12 proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-
13 beverages licenses determined for that quota area according to 16-4-201(1), (2), and (9) but in no case less
14 than two. The minimum number of protests determined in this manner will apply only to applications for either
15 on-premises consumption beer or all-beverages licenses.

16 (d) A resident of a county in another state that adjoins the county in Montana from which an
17 application comes may protest an application only if the county or state of residence of the person has certified
18 to the department that a similarly situated Montana resident would be able to make formal protest of an
19 alcoholic beverage license application in that state or county. The department may, by rule, establish how the
20 certification is to be made."

21

22 **Section 4.** Section 16-4-212, MCA, is amended to read:

23 **"16-4-212. Resort area determination.** (1) To obtain a resort area designation, the resort area
24 developer or landowner must submit an application with a plat setting forth the resort area boundaries and
25 designating the ownership of the lands within the resort area. The plat must show the location and general
26 design of the buildings and other improvements existing or to be built in the resort area. A master plan for the
27 development of the resort area may be filed by the resort area developer in satisfaction of this section.

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- 1 (2) (a) In addition to the other requirements of this code, at the time of application, a resort area
2 ~~must:~~
- 3 (i) ~~may~~ not be located within the boundaries of ~~a-an incorporated city or town~~ quota area as
4 described in 16-4-201(1) or (2), ~~except that if the resort area is located in a county having a consolidated city-~~
5 ~~county unit of local government, the resort area must be more than 5 miles from the historical corporate limits of~~
6 ~~the city or town that existed immediately before the abandonment or consolidation into the consolidated city-~~
7 ~~county unit of local government;~~
- 8 (ii) ~~must~~ have a current actual valuation of resort or recreational facilities, including land and
9 improvements, of not less than ~~\$1 \$10~~ million, at least ~~half \$5 million~~ of which valuation must be for a structure
10 or structures within the resort area;
- 11 (iii) ~~must~~ be under the sole ownership or control of one person or entity;
- 12 (iv) ~~must~~ contain a minimum of ~~50-125~~ acres of land; and
- 13 (v) ~~must~~ provide details of the ~~outdoor~~ recreational facilities that are or will be on the grounds of
14 the resort that warrant the resort designation being granted. These recreational facilities must be completed
15 prior to licenses being issued in 16-4-213.
- 16 (b) ~~A resort area's current actual valuation under subsection (2)(a)(ii) may be determined by using~~
17 ~~an independent appraisal or the department's tax appraisals of the property.~~
- 18 (c) ~~_____~~ For the purposes of this ~~section subsection (2)~~, "control" means land or improvements that are
19 owned or that are held under contract, lease, option, or permit.
- 20 (3) Within 15 business days after the application is filed, the department shall schedule a public
21 hearing to be held in the proposed area to determine whether the facility proposed by the resort area developer
22 or landowner is a resort area. At least 30 days prior to the date of the hearing, the department shall publish
23 notice of the hearing in a newspaper published in the county or counties in which the resort area is located,
24 once a week for 4 consecutive weeks. The notice must include a description of the proposed resort area. The
25 resort area developer or landowner shall, at the time of filing an application, pay to the department an amount
26 sufficient to cover the costs of publication.
- 27 (4) A person may present, in person or in writing, a statement to the department at the hearing in

1 opposition to or in support of the application.

2 (5) Within 30 days after the hearing, the department shall approve or deny the application. If the
3 application is denied, the applicant may request a review of the decision of the department pursuant to the
4 Montana Administrative Procedure Act.

5 (6) Once a resort area has been approved by the department, the boundaries of a resort area may
6 not be changed without a new application.

7 (7) (a) Except as provided in subsection (7)(b), an approved resort area designation lapses if no
8 resort all-beverages licenses are issued pursuant to 16-4-213 within 5 years of the department's approval of the
9 resort area or if the resort area applicant cannot demonstrate substantial progress toward completion of the
10 improvements and outdoor recreational facilities described in the application.

11 (b) A resort area designation that received department approval prior to January 1, 2024, lapses if
12 no resort all-beverages licenses are issued pursuant to 16-4-213 by January 1, 2029.

13 (c) A developer or landowner of a lapsed resort area may reapply to the department to obtain a
14 new resort area designation."

15
16 **Section 5.** Section 16-4-213, MCA, is amended to read:

17 **"16-4-213. Resort retail all-beverages licenses.** (1) After a resort area has been approved,
18 applications may be filed with the department for the issuance of resort retail all-beverages licenses within the
19 resort area.

20 (2) (a) Except as provided in subsections (2)(b) and (2)(c), the department may issue one resort
21 retail all-beverages license for the first 100 accommodation units and an additional license for each additional
22 50 accommodation units within an approved resort area as long as the recreational facilities under 16-4-212
23 have also been completed.

24 (b) (i) For a resort area with a perimeter containing at least ~~1,000~~ 500 contiguous acres that has a
25 current actual valuation of completed recreational facilities, including land and improvements, of not less than
26 ~~\$30~~\$20 million, the department may issue up to 10 resort retail all-beverages licenses regardless of the number
27 of accommodation units.

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1 (ii) For a resort area with a perimeter containing at least 2,000 contiguous acres that has a current
2 actual valuation of completed recreational facilities, including land and improvements, of not less than \$40
3 million, the department may issue up to 25 resort retail all-beverages licenses regardless of the number of
4 accommodation units.

5 (c) (i) A resort area designation application to the department that received approval prior to
6 January 1, 1999, is entitled to the issuance of one resort retail all-beverages license for a \$20,000 license fee.
7 ~~Any additional resort retail all-beverages licenses issued to a resort area under this subsection (2)(c) must meet~~
8 ~~the accommodation unit requirement in subsection (2)(a) of this section and pay the license fee and renewal~~
9 ~~fees as provided in 16-4-504.~~

10 (ii) If the resort area is located within the boundaries of a quota area as provided in 16-4-201(1) or
11 (2) as of the date of submission for a resort retail all-beverages license, then notwithstanding the number of
12 accommodation units, the resort area is entitled to three additional resort retail all-beverages licenses for a one-
13 time fee of \$400,000 each.

14 (iii) If the resort area is located within the boundaries of a quota area as provided in 16-4-201(1) or
15 (2) as of the date of submission for a resort retail all-beverages license, then notwithstanding the number of
16 accommodation units, the resort area is not eligible for additional resort retail all-beverages licenses beyond
17 those issued prior to January 1, 2028, and described in subsections (2)(c)(i) and (2)(c)(ii).

18 (d) ~~(i)~~ For purposes of this code, "accommodation unit" means a unit that is available for short-
19 term guest rental and includes:

20 ~~(A)(i)~~ a single-family home;

21 ~~(B)(ii)~~ a single unit of an apartment, condominium, or multiplex;

22 ~~(C)(iii)~~ a single room of a hotel or motel; or

23 ~~(D)(iv)~~ similar living space. A space under this subsection ~~(2)(d)(i)(D)~~ (2)(d)(iv) must be distinctly
24 separated from other living spaces within the building and have its own sleeping, bath, and toilet facilities.

25 ~~(ii) In order to qualify toward the required total for the purposes of subsection (2)(a), accommodation~~
26 ~~units may not be located within the boundaries of a quota area as provided in 16-4-201(1) or (2) as of the date~~
27 ~~of submission for a resort retail all-beverages license.~~

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- 1 (3) Regardless of how many resort area all-beverages licenses are issued in a resort area, no
2 more than 20 gambling machine permits may be issued for the resort area.
- 3 (4) A resort retail all-beverages license within the resort area:
- 4 (a) is subject to all other requirements of an all-beverages license in this code, except:
- 5 (i) for the purposes of premises suitability under 16-3-311, a licensed retailer may use a part of
6 the building as a licensed premises for the consumption of alcoholic beverages on the premises. The premises
7 must be separated from the rest of the building by permanent walls but may have inside access to the rest of
8 the building at all times even if the businesses or uses in the other part of the building are unrelated to the
9 operation of the premises in which alcoholic beverages are served. If the premises are located in a portion of a
10 building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to
11 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
12 security features such as rolling gates, locking cabinets, tap locks, or key card access;
- 13 (ii) the interior portion of the licensed premises must be a continuous area that is under the control
14 of the licensee and not interrupted by any area in which the licensee does not have adequate control, and
15 includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in
16 order to allow patrons to access other tenant businesses or private dwellings in the same building, including but
17 not limited to entryways, hallways, stairwells, and elevators; and
- 18 (iii) the premises may include one or more exterior patios or decks as long as sufficient physical
19 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional
20 perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and
21 impedes foot traffic.
- 22 (b) is not subject to the quota limitations set forth in 16-4-201; and
- 23 (c) is transferable to another location within the boundaries of the resort area or to another owner
24 to be used at a location within the boundaries of the resort area.
- 25 (5) For licenses issued under this section, a licensee may apply to the department to allow for the
26 delivery of alcohol to guests of accommodation units and the prestocking of alcoholic beverages in
27 accommodation units within the designated resort area property as long as the purchaser's age is verified. The

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1 application fee is \$100.

2 (6) Employees of the resort licensee who sell, serve, or deliver alcohol must be trained as provided
3 in 16-4-1005.

4 (7) A resort retail all-beverages licensee whose license was issued under subsection (2)(c)(i) may
5 enter into one concession agreement as provided in 16-4-418, regardless of whether the licensee's premises is
6 located outside of a quota area as defined in 16-4-201(1) or (2). A resort retail all-beverages licensee whose
7 premises is located outside of a quota area as defined in 16-4-201(1) or (2) may enter into a maximum of one
8 concession agreement per license with an unlicensed entity to serve alcoholic beverages. Except for 16-4-
9 418(1), the provisions of 16-4-418 apply.

10 (8) If a resort area has two or more resort retail all-beverage licenses or retail all-beverages
11 licenses within the boundaries of the resort, the licensees may also apply to use a resort alternate alcoholic
12 beverage storage facility to be located within the resort area. The application fee is \$100. The alternate storage
13 facility will be considered part of each licensee's existing licensed premises, though it does not need to be
14 contiguous to qualify for approval. The licensees using the alternate storage facility must meet all requirements
15 to ensure the secure storage of alcoholic beverages and prevent on-site consumption of alcoholic beverages.
16 Alcoholic beverages in sealed containers belonging to multiple licensees within the resort area may be stored in
17 the same storage facility. A resort retail licensee or retail licensee who is approved to use the alternate storage
18 facility may accept delivery of alcoholic beverages at the alternate storage facility and may transfer alcoholic
19 beverages to another licensee approved to use the alternate storage facility. Any transfer of alcoholic
20 beverages between approved licensees must be properly accounted for. Approval to use the alternate storage
21 facility must be documented on the face of each license within the resort area that applies to use the alternate
22 storage facility.

23 (9) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in
24 original packaging, prepared servings, or growlers.

25 (10) Applications may be made to the department for resort retail all-beverages licenses provided in
26 subsection (2)(c)(i) or (2)(c)(ii) at any time before January 1, 2028. If the applicant does not have a premises,
27 the department may approve the applications without approving the premises if all other requirements of this

1 code related to an applicant are met. A license issued without a premises must be immediately put on nonuse
2 status until a premises is approved by the department and may not be transferred to another person or
3 business entity prior to approval of the premises unless that transfer is due to death of an owner or was
4 reasonably beyond the control of the licensee. On issuance of a license without a premises as provided in this
5 subsection, the licensee shall apply for a premises located within the resort area and must have the premises
6 approved no later than January 1, 2029."

7
8 **Section 6.** Section 16-4-301, MCA, is amended to read:

9 **"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application**
10 **and issuance.** (1) (a) The following organizations or institutions that conduct a special event may receive up to
11 three-TWELVE special permits a year to sell beer and table wine to the patrons of the special event:

12 (i) An an organization or institution that has a tax-exempt designation under the provisions of
13 section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended;

14 (ii) an organization or institution that is organized and operated to raise funds for a needy person;

15 or

16 (iii) an organization or institution that is an accredited Montana postsecondary school and that
17 conducts a special event may receive a special permit to sell beer and table wine to the patrons of that special
18 event. An organization may receive up to three special permits a year.

19 (b) A civic league or organization that has a tax-exempt designation under section 501(c)(4) of the
20 Internal Revenue Code, 26 U.S.C. 501(c)(4), as amended, or an organization authorized by an accredited
21 Montana postsecondary school to engage in fundraising activities for intercollegiate athletics that has a tax-
22 exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C.
23 501(c)(3), as amended, may receive up to 12 special permits a year to sell beer and table wine. For purposes
24 of fundraising activities for intercollegiate athletics, only one organization for each Montana postsecondary
25 school may be authorized to apply for and receive special permits under this section. All net earnings from the
26 sale of beer and table wine must be contributed to the state of Montana or a political subdivision of the state or
27 must be devoted to purposes required of entities under section 501(c)(3) of the Internal Revenue Code, 26

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1 U.S.C. 501(c)(3), as amended.

2 (c) An association or corporation engaged in professional sporting contests or junior hockey
3 contests may receive one special permit to sell beer and table wine ~~covering the entire~~ for contests played
4 ~~during the~~ COVERING THE ENTIRE season of play if:

5 (i) the association or corporation is sanctioned by a sports organization that regulates the specific
6 sport;

7 (ii) the ~~contests played during the~~ season of play of the sport is ~~are~~ is specified in advance;

8 (iii) an admission fee to the contests is charged; ~~and~~ AND

9 (iv) the contest events are held in facilities that provide seating for at least 1,000 patrons; ~~and~~

10 ~~(v) for professional sporting contests, the players receive more than nominal compensation.~~

11 (d) A chamber of commerce or business league that has a tax-exempt designation under section
12 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(6), as amended, may receive up to 12 special
13 permits a year to sell beer and table wine. A chamber of commerce may not use one of its special permits for
14 an event conducted by a business league, and a business league may not use one of its permits for an event
15 conducted by a chamber of commerce. The chamber of commerce or business league receiving a special
16 permit shall obtain liquor liability insurance for any event it conducts.

17 (e) A winery located in the state and licensed pursuant to 16-4-107 may receive up to three
18 TWELVE special permits during a calendar year to provide wine that was produced at the winery's licensed
19 premises.

20 (e)(f) The beer and wine sold under this subsection (1) must be consumed at the time when and
21 within the enclosure where the special event, activity, or sporting contest is held.

22 (f)(g) An application for a special permit must be presented ~~3-5~~ business days in advance, but the
23 department may, for good cause, waive the ~~3-day~~ 5-day requirement. The application must describe the
24 location of the enclosure where the special event, activity, or sporting contest is to be held, the nature of the
25 special event, activity, or sporting contest, and the period during which it is contemplated that the special event,
26 activity, or sporting contest will be held. An application for a permit for professional sporting contests or junior
27 hockey contests under subsection (1)(c) must provide the ~~inclusive~~ INCLUSIVE dates of each contest played

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1 ~~during~~ the season of play ~~for the sporting contest~~ FOR THE SPORTING CONTEST. The application must be
2 accompanied by the amount of the permit fee and a written statement of approval of the premises where the
3 special event, activity, or sporting contest is to be held issued by the local law enforcement agency that has
4 jurisdiction over the premises.

5 ~~(g)~~(h) A special permit issued under this subsection (1) for the purpose of selling and serving beer
6 and table wine at a special event, activity, or sporting contest conducted on the premises of a county fairground
7 or public sports arena authorizes the permitholder to sell and serve beer and table wine in the grandstand and
8 bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

9 ~~(h)~~(i) For the purposes of this subsection (1), a post of a nationally chartered veterans' organization
10 or a lodge of a recognized national fraternal organization otherwise licensed under this code is an organization
11 that may receive special permits for three special events a year, ~~as described in subsection (1)(a)~~, to sell beer
12 and table wine. All net proceeds must go to the post or lodge acquiring the special permit.

13 (2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national
14 fraternal organization not otherwise licensed under this code may receive, without notice or hearing as provided
15 in 16-4-207, a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at the
16 post or lodge to members and their guests only, to be consumed within the hall or building of the post or lodge.

17 (b) The application of a nationally chartered veterans' organization or lodge of a recognized
18 national fraternal organization must describe the location of the hall or building where the special permit will be
19 used and the date it will be used.

20 (c) The special permit may be issued for a 24-hour period only, ending at 2 a.m., and the
21 department may not issue more than 12 special permits to any post or lodge during a calendar year."

22 - END -