

1 SENATE BILL NO. 75  
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 ALCOHOL LAWS RELATING TO  
6 LICENSING; REVISING LAWS RELATED TO BREWERS AND BEER IMPORTERS; ALLOWING OUT-OF-  
7 STATE BREWERIES TO BE REGISTERED IN MONTANA; ALLOWING CERTAIN SALES AND SHIPPING OF  
8 BEER; REVISING LAWS RELATED TO BEER SHIPPED BY BEER WHOLESALERS; REVISING LAWS  
9 RELATED TO RESORT AREA ALL-BEVERAGES LICENSES; REVISING LAWS RELATING TO SUITABLE  
10 PREMISES FOR RETAIL LICENSES; PROVIDING THAT AN OUT-OF-STATE BREWERY REGISTERS;  
11 REVISING LAWS RELATING TO THE SUITABILITY OF LICENSE APPLICANTS; REVISING LAWS  
12 RELATING TO LICENSING QUALIFICATIONS; ADDING NEW ENTITY TYPES THAT CAN BE VETTED FOR  
13 LICENSURE; AND AMENDING SECTIONS 16-3-211, 16-3-212, 16-3-214, 16-3-230, 16-3-302, 16-3-311, 16-4-  
14 101, 16-4-107, 16-4-314, AND 16-4-401, MCA."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
17

18 **Section 1.** Section 16-3-211, MCA, is amended to read:

19 **"16-3-211. Monthly report of brewer, beer importer, or retailer -- inspection of books and**  
20 **premises.** (1) Every brewer and every beer importer licensed or registered to do business in this state shall, on  
21 or before the 15th day of each month, as prescribed by the department, make an exact return to the department  
22 of the amount of beer manufactured or imported by the brewer or importer, the amount sold by the brewer or  
23 importer in the previous month, and the inventory of the brewer or importer. The department may make an  
24 examination of any brewer's or beer importer's books and of the brewer's or importer's premises and otherwise  
25 check the accuracy of any return or check the alcoholic content of beer manufactured or imported by the brewer  
26 or importer.

27 (2) Every retailer licensed to do business in this state shall, on or before the 15th day of each

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1 (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or  
2 to licensed retailers.

3 (3) A brewery may import or purchase, upon terms and conditions the department may require,  
4 necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing  
5 purposes.

6 (4) An additional license fee may not be imposed on a brewery providing its own products on its  
7 licensed premises for consumption on the premises.

8 (5) This section does not prohibit a licensed or registered brewer from shipping and selling beer  
9 directly to a wholesaler in this state under the provisions of 16-3-230."

10

11 **Section 4.** Section 16-3-230, MCA, is amended to read:

12 **"16-3-230. Beer required to be shipped to wholesaler.** Except as provided in 16-3-214 and 16-4-  
13 901, all beer that is to be distributed in Montana, ~~whether manufactured outside of or within the state of~~  
14 ~~Montana, must be consigned to and sold and~~ shipped, either directly or via a licensed storage depot, to a  
15 licensed wholesaler and unloaded into the wholesaler's warehouse in Montana or subwarehouse in Montana. A  
16 brewer or beer importer ~~may sell only to wholesalers from a storage depot in Montana and shall maintain~~  
17 records of all beer, including the name or kind received, on hand, and sold. The records may at any time be  
18 inspected by a representative of the department. The wholesaler shall distribute the beer from the warehouse  
19 or subwarehouse and shall keep records at the wholesaler's ~~principal place of business~~ licensed premises of all  
20 beer, including the name or kind received, on hand, sold, and distributed. The records may be inspected by a  
21 representative of the department at any time."

22

23 **Section 5.** Section 16-3-302, MCA, is amended to read:

24 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to  
25 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the  
26 retailer.

27 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf

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1 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under  
2 16-4-109 to sell beer and wine:

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

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

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

10 (4) (a) It is lawful for a licensee who has an all-beverages license or a resort area all-beverages  
11 license to sell alcoholic beverages:

12 (i) in the building or other structural premises constituting the primary indoor lodging quarters of a  
13 hotel or other short-term lodging facility;

14 (ii) if the licensee's premises include a swimming pool, in a permanent, licensed alcohol service  
15 structure in the swimming pool area separate from the main licensed premises;

16 (iii) if the licensee's premises include a ski hill, in up to two permanent, licensed alcohol service  
17 structures separate from the main licensed premises within the exterior boundaries of the same premises that  
18 are owned, leased, or otherwise under the control of and operated by the same property owner, licensee, and if  
19 applicable, concessionaire;

20 (iv) if the licensee's premises include a golf course, the premises in addition to the main licensed  
21 premises may include:

22 (A) the building or alcohol service structure constituting the clubhouse or primary recreational  
23 quarters of the golf course that is separate from the main licensed premises; and

24 (B) the outdoor area within the boundaries of the golf course.

25 (b) Buildings or structural premises allowed under this subsection (4) may be separate from the  
26 building compromising the main licensed premises but must otherwise meet the premises suitability  
27 requirements of 16-3-311. The licensee shall pay an application fee of \$100 for each area allowed under this

1 subsection (4)."

3 **Section 6.** Section 16-3-311, MCA, is amended to read:

4 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may  
5 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages, except as  
6 otherwise allowed in 16-3-302(4). The licensed retailer must demonstrate that it has adequate control over all  
7 alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are  
8 actually or apparently intoxicated. Except as provided in subsection (8), the premises must be separated from  
9 the rest of the building by permanent walls but may have inside access to the rest of the building at all times  
10 even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in  
11 which the alcoholic beverages are served. A licensee may lease the kitchen or another specified area to allow  
12 another business entity to operate a business within its premises without permanent floor-to-ceiling walls and  
13 without a concession agreement if the other business does not take orders for, serve, or deliver alcohol and has  
14 a separate point of sale system. If the premises are located in a portion of a building, the licensed retailer must  
15 be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic  
16 beverages after hours, either by the presence of a lockable door or other security features such as rolling gates,  
17 locking cabinets, tap locks, or key card access.

18 (b) A resort retail all-beverages licensee ~~of,~~ a retail all-beverages licensee, or an on-premises  
19 consumption beer and wine licensee within the boundaries of a resort area may also utilize ~~an~~ alternate  
20 alcoholic beverage storage facility-facilities as allowed in 16-4-213(8).

21 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent  
22 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the  
23 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.  
24 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved  
25 alteration due to modifications required for approval by other state or local government entities, such as  
26 compliance with fire or building codes, the department must be notified, but preapproval is not required for  
27 these modifications. An alteration for the purposes of this section is any structural change in a premises that

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1 does not increase the square footage of the existing approved premises. An alteration that increases the  
2 square footage of the existing approved premises must be approved by the department prior to beginning the  
3 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an  
4 alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the  
5 inspections by local government agencies may not be required for department approval.

6 (3) The interior portion of the licensed premises must be a continuous area that is under the  
7 control of the licensee and not interrupted by any area in which the licensee does not have adequate control,  
8 and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants  
9 in order to allow patrons to access other tenant businesses or private dwellings in the same building, including  
10 but not limited to entryways, hallways, stairwells, and elevators.

11 (4) The premises may include one or more exterior patios or decks as long as sufficient physical  
12 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional  
13 perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and  
14 impedes foot traffic.

15 (5) Premises suitability does not include a minimum number of seats.

16 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is  
17 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its  
18 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to  
19 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other  
20 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is  
21 \$100.

22 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the  
23 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the  
24 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the  
25 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent  
26 underage service. The application fee is \$100. On department approval, an on-premises consumption retailer's  
27 keg storage and beer lines running into the licensed premises may be in a noncontiguous storage area

1 provided that the licensee is able to maintain control and adequate safeguards are in place to prevent public  
2 access.

3 (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the  
4 licensees are able to maintain control of their respective premises through adequate physical separation.

5 (9) (a) For the purposes of this section, "adequate physical separation" means:

6 (i) the premises of the retailer and the premises of the brewery or winery are secured after  
7 business hours from each other and from any other business, including but not limited to prohibiting a customer  
8 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of  
9 operation as specified in 16-3-213(2)(b); and

10 (ii) the separation may include doors, gates, or windows that may be left open during business  
11 hours.

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

13  
14 **Section 7.** Section 16-4-101, MCA, is amended to read:

15 **"16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant.**

16 (1) Except as provided in subsection (4), Any any person desiring to manufacture, import, or sell beer under the  
17 provisions of this code shall first apply to the department for a license to do so and pay with such the  
18 application the license fee prescribed. The department shall require of such the applicant satisfactory evidence  
19 that the applicant is of good moral character and a law-abiding person.

20 (2) Upon On being satisfied, from such the application or otherwise, that such the applicant is  
21 qualified, the department shall issue such a license to such the person, which and the license shall be must at  
22 all times be prominently displayed at the licensed premises in the place of business of such applicant.

23 (3) If the department shall find finds that such the applicant is not qualified, no a license shall may  
24 not be granted and such the license fee shall must be returned.

25 (4) A brewery that is not located in the state or a beer importer that holds the appropriate license  
26 from the United States department of the treasury that desires to distribute its beer within this state through  
27 licensed beer wholesalers shall apply to the department for registration on forms to be prepared and furnished

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1           (c) An applicant applying for an all-beverages license and any individual of the applicant who must  
2 meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an  
3 ownership interest in more than three establishments licensed under this chapter for all-beverages sales.

4 However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

5           (d) An applicant and any individual of the applicant who must meet the requirements of subsection  
6 (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106.

7           (e) An applicant for an on-premises consumption license or any member of the applicant's  
8 immediate family must be without financing from and may not have any affiliation to a manufacturer, importer,  
9 bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership  
10 interest in one or more manufacturer licenses. This prohibition also applies to any individual of the applicant  
11 who must meet the requirements of subsection (2)(a).

12           (f) An applicant for an off-premises consumption license or any member of the applicant's  
13 immediate family must be without financing from and may not have any affiliation to a manufacturer, importer,  
14 bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who  
15 must meet the requirements of subsection (2)(a).

16           (g) An applicant for a manufacturing, importing, or wholesaling license and any individual of the  
17 applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any  
18 establishment licensed under this chapter for retail alcoholic beverage sales.

19           (h) An applicant for a wholesale license and any individual of the applicant who must meet the  
20 requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled  
21 by a manufacturer of an alcoholic beverage."

22  
23           NEW SECTION. Section 11. TRANSITION. THE DEPARTMENT SHALL RECLASSIFY EXISTING LICENSES TO A  
24 REGISTRANT PURSUANT TO [SECTION ~~5 7~~] AFTER JUNE 30, 2024, AND DURING THE EXISTING LICENSEE'S RENEWAL.

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26           NEW SECTION. Section 12. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [SECTIONS  
27 1 THROUGH ~~5 4 AND 7~~] ARE EFFECTIVE JULY 1, 2024.

