

1 SENATE BILL NO. 463

2 INTRODUCED BY J. TREBAS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO ALCOHOL,
5 MARIJUANA, AND TOBACCO; REVISING THE DEFINITION OF "MARIJUANA"; REVISING ~~FINES FOR~~
6 ~~DEFINITIONS RELATED TO~~ BOTTLE CLUBS AND ~~VIOLATIONS OF~~ THE CLEAN INDOOR AIR ACT; AND
7 AMENDING SECTIONS 16-6-306, 16-12-102, AND ~~50-40-115~~ 50-40-103, MCA."

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

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11 Section 1. Section 16-6-306, MCA, is amended to read:

12 "16-6-306. **Bottle clubs prohibited.** (1) The operation of alcoholic beverage bottle clubs is prohibited
13 by any individual or entity. A bottle club is defined as any individual or entity maintaining, operating, or leasing
14 premises not licensed for the sale of alcoholic beverages in which alcoholic beverages are kept for
15 consumption by members of the public or for the purpose of providing a place for consuming alcoholic
16 beverages by members of the public for a fee or other consideration. ~~A bottle club does not include a private~~
17 ~~member club in which members store and consume alcohol at the private member club.~~ For the purposes of
18 this subsection, "consideration" includes but is not limited to a cover charge, the sale of food, ice, mixers, or any
19 other fluids for alcoholic beverages, the furnishing of glassware or other containers for use in the consumption
20 of alcoholic beverages, or the expectation of a purchase of a good or service. ~~The term "consideration" does~~
21 ~~not include membership dues or fees for a private member club.~~

22 (2) Nothing in this section prevents the service or consumption of alcoholic beverages at private
23 gatherings. For the purposes of this subsection, "private gathering" means an event hosted by an individual that
24 is not open to the general public and in which no fee or consideration is charged. The term does not include an
25 event catered by a licensed retailer. ~~For the purposes of this subsection, the term "not open to the general~~
26 ~~public" means open only to invited guests of the private gathering.~~

27 (3) Nothing in this section prohibits a licensed on-premises retailer or concessionaire from opening
28 and serving to patrons 21 years of age or older wine from a sealed bottle brought to the premises by the patron

1 for on-premises consumption. This service may not constitute a violation of 16-3-301 or this section, regardless
2 of whether the licensed retailer charges a corkage fee.

3 (4) Nothing in this section prohibits a marketplace from serving one single alcoholic beverage, up
4 to 5 ounces of wine or 12 ounces of beer, to a bona fide customer for consumption at the marketplace or from
5 giving a single beer or wine in its original packaging or a growler to a bona fide customer for consumption
6 outside the marketplace. For the purposes of this subsection, "marketplace" does not include a business solely
7 dedicated or directly related to the on-premises or off-premises consumption of alcoholic beverages, such as a
8 bar, restaurant, convenience store, or grocery store. This subsection does not authorize the possession or
9 consumption of alcoholic beverages not provided by the marketplace.

10 ~~(4)~~(5) The department may assess a fine of up to \$500 against individuals or entities serving
11 alcoholic beverages or allowing consumption of alcoholic beverages in violation of subsection (1) without a
12 license or special permit."

13

14 **Section 2.** Section 16-12-102, MCA, is amended to read:

15 **"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

16 (1) "Adult-use dispensary" means a licensed premises from which a person licensed by the
17 department may:

18 (a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or
19 other licensee approved under this chapter; and

20 (b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age
21 or older, or both.

22 (2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries,
23 controls or is controlled by, or is under common control with, another person.

24 (3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in
25 accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

26 (4) "Canopy" means the total amount of square footage dedicated to live plant production at a
27 licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

28 (5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or

1 (b) The term does not include the seeds, stalks, and roots of the plant. (Subsection (15)(b)(ii)
2 terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.)"

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4 **Section 3.** Section 50-40-103, MCA, is amended to read:

5 **"50-40-103. Definitions.** As used in this part, the following definitions apply:

6 (1) "Bar" means an establishment with a license issued pursuant to Title 16, chapter 4, that is
7 devoted to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the
8 serving of food is only incidental to the service of alcoholic beverages or gambling operations. The term
9 includes but is not limited to taverns, night clubs, cocktail lounges, and casinos.

10 (2) "Department" means the department of public health and human services provided for in 2-15-
11 2201.

12 (3) "Enclosed public place" means an indoor area, room, or vehicle that the general public is
13 allowed to enter ~~or and~~ that serves as a place of work, including but not limited to the following:

14 (a) restaurants;

15 (b) stores;

16 (c) public and private office buildings and offices, including all office buildings and offices of
17 political subdivisions, as provided for in 50-40-201, and state government;

18 (d) trains, buses, and other forms of public transportation;

19 (e) health care facilities;

20 (f) auditoriums, arenas, and assembly facilities;

21 (g) meeting rooms open to the public;

22 (h) bars;

23 (i) community college facilities;

24 (j) facilities of the Montana university system; and

25 (k) public schools, as provided for in 20-1-220 and 50-40-104.

26 (4) "Enclosed room" means an area with a wall on all sides reaching from floor to ceiling, exclusive
27 of windows and doors, and does not include an area completely or partially open to the outside air such as a
28 roofed shelter.

1 ~~(4)(5)~~ "Establishment" means an enterprise under one roof that serves the public and for which a
 2 single person, agency, corporation, or legal entity is responsible.

3 ~~(5)(6)~~ "Incidental to the service of alcoholic beverages or gambling operations" means that at least
 4 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts,
 5 or both.

6 ~~(6)(7)~~ "Person" means an individual, partnership, corporation, association, political subdivision, or
 7 other entity.

8 ~~(7)(8)~~ "Place of work" means an enclosed room where one or more individuals work.

9 ~~(8)(9)~~ "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar,
 10 cigarette, pipe, or any smokable product and includes the use of marijuana."

Section 3. Section 50-40-115, MCA, is amended to read:

12 ~~"50-40-115.— Penalties. (1) It is unlawful for a person to smoke in any area where smoking is~~
 13 ~~prohibited under 20-1-220 or 50-40-104. A person An establishment that fails to prohibit a person who violates~~
 14 ~~20-1-220 or 50-40-104 is guilty of a misdemeanor and shall be subject to a fine of not less than \$25 or more~~
 15 ~~than \$100 \$50 that may be assessed only once a day.~~

16 ~~(2) A person who owns, manages, operates, or otherwise controls a public place or place of~~
 17 ~~employment and who fails to comply with the provisions of Title 50, chapter 40, is guilty of a misdemeanor after~~
 18 ~~a third violation within a 3-year period and shall be warned, reprimanded, or punished as follows:~~

- 19 ~~(a) a warning for the first violation;~~
- 20 ~~(b) a written reprimand for a second violation; and~~
- 21 ~~(c) within any 3-year period, a fine of:~~
 - 22 ~~(i) \$100 for a third violation;~~
 - 23 ~~(ii) \$200 for a fourth violation; and~~
 - 24 ~~(iii) \$500 for a fifth or subsequent violation.~~

25 ~~(3) Penalties imposed under this section may not be considered by the department of revenue for the~~
 26 ~~purposes of 16-4-401 or by the department of justice for the purposes of 23-5-119, 23-5-177, or 23-5-611(1)(a)~~
 27 ~~or (1)(c)."~~