

1 SENATE BILL NO. 463

2 INTRODUCED BY J. TREBAS

3

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 BOTTLE CLUBS ~~AND VIOLATIONS OF THE CLEAN INDOOR AIR ACT; PROVIDING A DEFINITION;~~ AND  
7 AMENDING SECTIONS 16-6-306, 16-12-102, AND ~~50-40-115~~ 50-40-103, MCA."

8

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

10

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 and that does not have  
18 employees or conduct any unlicensed alcoholic beverage sales. For the purposes of this subsection,  
19 "consideration" includes but is not limited to a cover charge, the sale of food, ice, mixers, or any other fluids for  
20 alcoholic beverages, the furnishing of glassware or other containers for use in the consumption of alcoholic  
21 beverages, or the expectation of a purchase of a good or service. The term "consideration" does not include  
22 membership dues or fees for a private member club.

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

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

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

6

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

8 **"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

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

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

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

21 (5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or  
22 marijuana products for personal use from a licensed dispensary but not for resale.

23 (6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control  
24 with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or  
25 policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

26 (7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

27 (a) is a natural person, an entity that is organized under the laws of and for which its principal  
28 place of business is located in one of the states or territories of the United States or District of Columbia, or a

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1 intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

2 (f) a state or federal government pension plan; or

3 (g) any other entity identified by rule by the department.

4 (35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical  
5 condition who has received and maintains a valid registry identification card.

6 (36) "Registry identification card" means a document issued by the department pursuant to 16-12-  
7 503 that identifies an individual as a registered cardholder.

8 (37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

9 (b) An individual is not considered a resident for the purposes of this chapter if the individual:

10 (i) claims residence in another state or country for any purpose; or

11 (ii) is an absentee property owner paying property tax on property in Montana.

12 (38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height  
13 and 12 inches in diameter.

14 (39) "State laboratory" means the laboratory operated by the department of public health and  
15 human services to conduct environmental analyses.

16 (40) "Testing laboratory" means a qualified person, licensed under this chapter that:

17 (a) provides testing of representative samples of marijuana and marijuana products; and

18 (b) provides information regarding the chemical composition and potency of a sample, as well as  
19 the presence of molds, pesticides, or other contaminants in a sample.

20 (41) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are  
21 appropriate for the use of marijuana by an individual.

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

24

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

26 **"50-40-103. Definitions.** As used in this part, the following definitions apply:

27 (1) "Bar" means an establishment with a license issued pursuant to Title 16, chapter 4, that is  
28 devoted to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the

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1 serving of food is only incidental to the service of alcoholic beverages or gambling operations. The term  
2 includes but is not limited to taverns, night clubs, cocktail lounges, and casinos.

3 (2) "Department" means the department of public health and human services provided for in 2-15-  
4 2201.

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

7 (a) restaurants;

8 (b) stores;

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

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

12 (e) health care facilities;

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

14 (g) meeting rooms open to the public;

15 (h) bars;

16 (i) community college facilities;

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

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

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

22 ~~(4)~~(5) "Establishment" means an enterprise under one roof that serves the public and for which a  
23 single person, agency, corporation, or legal entity is responsible.

24 ~~(5)~~(6) "Incidental to the service of alcoholic beverages or gambling operations" means that at least  
25 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts,  
26 or both.

27 ~~(6)~~(7) "Person" means an individual, partnership, corporation, association, political subdivision, or  
28 other entity.

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1 ~~(7)(8)~~ "Place of work" means an enclosed room where one or more individuals work.

2 ~~(8)(9)~~ "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar,  
3 cigarette, pipe, or any smokable product and includes the use of marijuana."  
4

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

6 ~~**"50-40-115. Penalties.** (1) It is unlawful for a person to smoke in any area where smoking is~~  
7 ~~prohibited under 20-1-220 or 50-40-104. A person An establishment that fails to prohibit a person who violates~~  
8 ~~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~~  
9 ~~than \$100 \$50 that may be assessed only once a day.~~

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

13 ~~(a) a warning for the first violation;~~

14 ~~(b) a written reprimand for a second violation; and~~

15 ~~(c) within any 3-year period, a fine of:~~

16 ~~(i) \$100 for a third violation;~~

17 ~~(ii) \$200 for a fourth violation; and~~

18 ~~(iii) \$500 for a fifth or subsequent violation.~~

19 ~~(3) Penalties imposed under this section may not be considered by the department of revenue for the~~  
20 ~~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)~~  
21 ~~or (1)(c)."~~

22 - END -