

1 HOUSE BILL NO. 49

2 INTRODUCED BY T. BROCKMAN

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOLIC BEVERAGE LAWS RELATING TO BEER
6 WHOLESALER AND TABLE WINE DISTRIBUTOR AGREEMENTS; ~~REQUIRING BEER WHOLESALERS~~
7 ~~AND TABLE WINE DISTRIBUTORS TO MAINTAIN AGREEMENTS; REQUIRING A WHOLESALER TO~~
8 NOTIFY A BEER IMPORTER OF THE FILING OF AN AGREEMENT WITH THE DEPARTMENT; REQUIRING
9 A TABLE WINE DISTRIBUTOR TO NOTIFY THE SUPPLIER OF A FILING OF AN AGREEMENT WITH THE
10 DEPARTMENT; AMENDING SECTIONS 16-3-217, 16-3-221, 16-3-222, 16-3-224, AND 16-3-226, 16-3-416,
11 AND 16-3-420, MCA; REPEALING SECTIONS 16-3-226 AND 16-3-420, MCA; AND PROVIDING AN
12 IMMEDIATE EFFECTIVE DATE."

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

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16 (Refer to Introduced Bill)

17 Strike everything after the enacting clause and insert:

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19 **Section 1.** Section 16-3-226, MCA, is amended to read:

20 **"16-3-226. Brewer-wholesaler or beer importer-wholesaler agreements filed with department.**

21 ~~An~~Within 60 days after [the effective date of this act], or within 60 days after entering into a new agreement, an
22 exact copy of all agreements, contracts, or franchises between a brewer or beer importer and a wholesaler
23 ~~shall~~must be filed by the wholesaler with the department as a public document and ~~shall~~must be available to
24 any of the parties to a dispute. The department, upon the instigation of any action in a court of record, shall file
25 an exact certified copy of the agreement with the court for the court's consideration in determining any matter
26 before it. Any contracts, agreements, or franchises not ~~upon~~on record with the department ~~shall~~may not be
27 considered by any court as having any force or effect. The wholesaler shall notify the brewer or beer importer of
28 the filing of the agreement with the department."

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Section 2. Section 16-3-416, MCA, is amended to read:

"16-3-416. Table wine distributor provisions. (1) A supplier or table wine distributor must have a written agreement of distributorship that provides for purchase of the supplier's products from the supplier by the table wine distributor.

(2) An agreement of distributorship must provide that:

(a) a supplier shall notify a table wine distributor in writing at least 60 days prior to termination of an agreement of distributorship unless a termination without notice is permitted as provided in 16-3-417. The written notice must state the reasons for termination. Notice of termination is void if within 60 days of the notice, the table wine distributor rectifies the deficiency stated as the reason for termination and if the deficiency was not stated as reason for termination in a notice previously voided under the provisions of this subsection.

(b) a supplier may not unreasonably withhold or delay approval of a sale or transfer of the ownership, management, or control of a table wine distributorship. However, a table wine distributor shall give a supplier no less than 60 days' prior written notice of any material change in ownership, management, or control.

(3) Within 60 days after entering into an agreement of distributorship, the ~~supplier~~ table wine distributor shall advise the department of the agreement by filing a copy of the agreement that must include the sales area or areas designated for the table wine distributor. The table wine distributor shall notify the supplier of the filing of the agreement with the department.

(4) If a supplier terminates an agreement of distributorship under the provisions of subsection (2)(a), the table wine distributor subject to the termination is entitled to compensation for the laid-in cost of inventory. In the event of any termination of the agreement by the supplier other than termination for good cause or for any reason set forth in 16-3-417(3), the distributor is entitled to compensation for the laid-in cost of inventory and to liquidated damages based on the sales of the brand or brands involved, as may be provided in the agreement. If the supplier and the distributor are unable to agree on the amount of liquidated damages, the amount of liquidated damages must be determined by an arbitrator appointed under subsection (5) of this section.

(5) If undertaken in good faith by a supplier, a supplier may terminate an agreement of distributorship for a legitimate business reason not within the definition of good cause if an arbitrator appointed

1 by the department finds, after hearing the supplier and the table wine distributor, that the termination is in the
2 best interest of the table wine brand concerned. Arbitration under this section must be conducted under the
3 provisions of Title 27, chapter 5.

4 (6) All agreements of distributorship are interpreted and governed by the laws of Montana.

5 (7) In any dispute resulting in litigation between a supplier and a distributor, the litigation must
6 occur in a Montana court, federal or state, unless that forum would create an unreasonable burden on any
7 party, as determined by the court in which the litigation is commenced.

8 (8) Agreements between a supplier and a distributor must recognize the constitutional right to a
9 jury trial as set forth in Article II, section 26, of the Montana constitution.

10 (9) A provision in an agreement of distributorship that is inconsistent with the requirements of this
11 section is void."

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13 **Section 3.** Section 16-3-420, MCA, is amended to read:

14 "**16-3-420. Applicability.** Within 60 days after ~~October 1, 1994~~ [the effective date of this act], or within
15 60 days after the execution of a new agreement by the parties, whichever is later, an agreement of
16 distributorship must be reduced to writing and an exact copy of the agreement must be filed by the table wine
17 distributor with the department as a public document and must be available to any of the parties to a dispute.
18 Upon filing with the department, the agreement becomes subject to the provisions of 16-1-106, 16-3-401, and
19 16-3-415 through 16-3-421."

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22 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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