

HOUSE BILL NO. 867

INTRODUCED BY E. BUTTREY, A. BUCKLEY, R. MARSHALL, L. JONES, T. BROCKMAN, J. SMALL, S.
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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AGENCY LIQUOR STORE LAWS; REVISING LAWS RELATED TO WHEN A STORE MAY REMAIN OPEN; ALLOWING AGENCY LIQUOR STORES TO REMAIN OPEN ON SUNDAYS, MONDAYS, AND LEGAL HOLIDAYS; PROVIDING THAT THE OPERATING HOURS ARE SUBJECT TO RESTRICTIONS; ALLOWING THE STATE TO RECOUP COSTS IN PHYSICALLY RECOVERING EXISTING INVENTORY FOR WHICH IT HAS A LIEN FOR LATE PAYMENTS BY THE AGENCY LIQUOR STORE; ALLOWING CREDIT PURCHASES BY LICENSEES FROM AGENCY LIQUOR STORES IF PAYMENT IS MADE WITHIN A CERTAIN AMOUNT OF TIME; AND AMENDING SECTIONS 16-2-104, AND 16-2-110, AND 16-2-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 16-2-104, MCA, is amended to read:

"16-2-104. Hours. ~~(1) Agency liquor stores may remain open during the period between 8 a.m. and 2 a.m. The stores must be closed for the transaction of business on legal holidays and between the close of normal business Saturday afternoon up to the opening of normal business Tuesday morning. Subject to local ordinances or department requirements relating to operating hours, a store may be open or closed at the store's discretion.~~

~~(2) (a) An agency liquor store may be open on Mondays that are not legal holidays if 51% of the all-beverages licensees within the agency liquor store's immediate market area sign a petition agreeing that agency liquor stores located within the immediate market area may be open on Mondays. The petition must be on a form prescribed by the department. The department shall verify the validity of the signatures on the petition. If the department determines that the petition contains sufficient valid signatures, all agency liquor stores within the designated market area must be allowed to transact business on Mondays that are not legal holidays. To determine the number of signatures needed, the department shall round up to the nearest whole~~

1 ~~number any fractional number of all beverages licensees.~~

2 ~~(b) For the purposes of subsection (2)(a), immediate market area means:~~

3 ~~(i) the city limits for stores located in incorporated cities or towns; and~~

4 ~~(ii) the area contained within a 5-mile radius from a store or stores located in unincorporated cities or~~
5 ~~towns or in a consolidated local government."~~

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7 NEW SECTION. SECTION 2. SEVEN-DAY CREDIT LIMITATION. (1) A SALE OR DELIVERY OF LIQUOR OR TABLE
8 WINE MAY NOT BE MADE TO A RETAIL LICENSEE FROM AN AGENCY LIQUOR STORE UNLESS CASH IS PAID WITHIN 7 DAYS
9 AFTER THE DELIVERY OF THE LIQUOR OR TABLE WINE.

10 (2) AN AGENCY LIQUOR STORE MAY NOT EXTEND MORE THAN 7 DAYS' CREDIT FOR THE SOLD OR
11 DELIVERED LIQUOR OR TABLE WINE TO A RETAIL LICENSEE, AND A RETAIL LICENSEE MAY NOT ACCEPT OR RECEIVE
12 DELIVERY OF THE LIQUOR OR TABLE WINE WITHOUT AGREEMENT TO PAY IN CASH FOR THE LIQUOR OR TABLE WINE WITHIN
13 7 DAYS AFTER THE DELIVERY.

14 (3) A CORRECTLY DATED CHECK THAT IS HONORED ON PRESENTATION IS CONSIDERED CASH FOR THE
15 PURPOSES OF THIS SECTION.

16 (4) ANY EXTENSION OR ACCEPTANCE OF CREDIT IN VIOLATION OF THIS SECTION IS CONSIDERED
17 RENDERING OR RECEIVING OF FINANCIAL ASSISTANCE. THE LICENSES OF ANY RETAIL LICENSEES THAT VIOLATE THIS
18 SECTION MUST BE SUSPENDED OR REVOKED, AND THE FRANCHISE AGREEMENT OF ANY AGENCY LIQUOR STORE
19 INVOLVED IN A VIOLATION OF THIS SECTION MUST BE TERMINATED, AS DETERMINED BY THE DEPARTMENT IN ITS
20 DISCRETION.

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22 **Section 3.** Section 16-2-110, MCA, is amended to read:

23 **"16-2-110. State lien on liquor in agency liquor stores.** The state has a first lien with an absolute
24 first priority to secure any outstanding amounts due the state for liquor purchased on any inventory, including
25 any after-acquired inventory in the possession of an agent or on the premises of an agency liquor store, to
26 secure payment for the existing inventory. The state has the right to physically recover any inventory from an
27 agency liquor store and impose fees to recoup the cost of the recovery for any failure to timely make
28 payments."

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SECTION 4. SECTION 16-2-203, MCA, IS AMENDED TO READ:

"16-2-203. Sales to licensees. Agency liquor stores may sell to licensees licensed under this code all kinds of liquor and table wine at the posted price. All sales must be made:
(1) on a cash basis; or
(2) as provided in [section 2]."

NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 16, CHAPTER 2, AND THE PROVISIONS OF TITLE 16, CHAPTER 2, APPLY TO [SECTION 2].

COORDINATION SECTION. SECTION 6. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 69 AND [THIS ACT] ARE PASSED AND APPROVED AND BOTH AMEND 16-2-203, THEN [SECTION 4 OF THIS ACT], AMENDING 16-2-203, IS VOID AND 16-2-203 MUST BE AMENDED AS FOLLOWS:

"16-2-203. Sales to licensees. Agency liquor stores may sell to licensees licensed under this code all kinds of liquor and table wine at the posted price. All sales must be ~~made on a cash basis~~ PAID FOR AT THE TIME OF SALE OR MADE AS PROVIDED IN [SECTION 2]."

NEW SECTION. SECTION 7. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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