

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
28 month, as prescribed by the department, make an exact return to the department of the amount of beer

1 purchased in the previous month directly from any brewery not located in the state of Montana."
2

3 **Section 2.** Section 16-3-212, MCA, is amended to read:

4 **"16-3-212. Brewers' or beer importers' sales to wholesalers lawful.** A licensed or registered
5 brewer may sell or deliver beer manufactured by the brewer to any licensed wholesaler. A licensed or
6 registered beer importer may sell or deliver beer imported by the importer to any licensed wholesaler."
7

8 **Section 3.** Section 16-3-214, MCA, is amended to read:

9 **"16-3-214. Beer sales by brewers -- sample room exception.** (1) Subject to the limitations and
10 restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon
11 payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the
12 department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of
13 this code and rules prescribed by the department, to:

14 (a) sell and deliver beer from its storage depot or brewery to:

15 (i) a wholesaler;

16 (ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to
17 deliver the beer and if:

18 (A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a
19 day to each licensed retailer; and

20 (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels
21 a year; or

22 (iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or
23 growlers;

24 (b) provide its own products for consumption on its licensed premises without charge or, if it is a
25 small brewery, provide its own products at a sample room as provided in 16-3-213; or

26 (c) do any one or more of the acts of sale and delivery of beer as provided in this code.

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

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

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

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

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

10 **"16-3-230. Beer required to be shipped to wholesaler.** Except as provided in 16-3-214 and 16-4-
11 901, all beer that is to be distributed in Montana, ~~whether manufactured outside of or within the state of~~
12 ~~Montana,~~ must be ~~consigned to and sold and~~ shipped, either directly or via a licensed storage depot, to a
13 licensed wholesaler and unloaded into the wholesaler's warehouse in Montana or subwarehouse in Montana. A
14 brewer or beer importer ~~may sell only to wholesalers from a storage depot in Montana and~~ shall maintain
15 records of all beer, including the name or kind received, on hand, and sold. The records may at any time be
16 inspected by a representative of the department. The wholesaler shall distribute the beer from the warehouse
17 or subwarehouse and shall keep records at the wholesaler's ~~principal place of business~~ licensed premises of all
18 beer, including the name or kind received, on hand, sold, and distributed. The records may be inspected by a
19 representative of the department at any time."
20

21 **SECTION 5. SECTION 16-3-302, MCA, IS AMENDED TO READ:**

22 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to
23 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the
24 retailer.

25 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf
26 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under
27 16-4-109 to sell beer and wine:

28 (a) in the building or other structural premises constituting the clubhouse or primary indoor

1 recreational quarters of the golf course; and

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

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

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

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

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

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

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

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

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

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

26

27 **SECTION 6. SECTION 16-3-311, MCA, IS AMENDED TO READ:**

28 **"16-3-311. Suitable premises for licensed retail establishments. (1) (a) A licensed retailer may**

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

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

17 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent
18 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the
19 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.
20 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved
21 alteration due to modifications required for approval by other state or local government entities, such as
22 compliance with fire or building codes, the department must be notified, but preapproval is not required for
23 these modifications. An alteration for the purposes of this section is any structural change in a premises that
24 does not increase the square footage of the existing approved premises. An alteration that increases the
25 square footage of the existing approved premises must be approved by the department prior to beginning the
26 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
27 alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the
28 inspections by local government agencies may not be required for department approval.

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

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

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

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

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

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

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

28 (i) the premises of the retailer and the premises of the brewery or winery are secured after

1 business hours from each other and from any other business, including but not limited to prohibiting a customer
2 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of
3 operation as specified in 16-3-213(2)(b); and

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

6 (b) The term does not require permanent floor-to-ceiling walls."
7

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

9 **"16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant.**

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

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

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

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

23 (5) A BREWERY OR BEER IMPORTER MAY NOT SHIP BEER INTO THIS STATE UNTIL THE REGISTRATION IS
24 GRANTED BY THE DEPARTMENT. THE REGISTRATION MAY BE CANCELED OR SUSPENDED BY THE DEPARTMENT UPON A
25 FINDING AFTER NOTICE AND HEARING THAT THE REGISTRANT HAS NOT COMPLIED WITH THE TERMS OF ITS
26 REGISTRATION."

27
28 **Section 8.** Section 16-4-107, MCA, is amended to read:

1 **"16-4-107. Winery license -- winery and importer registration.** (1) (a) Wine, other than for personal
2 consumption in conformity with federal exemptions from holding a basic permit as a bonded winery, may be
3 manufactured or directly distributed to retailers within the state only by a licensed winery, and table wine may
4 be shipped directly by a winery with a direct shipment endorsement as provided in 16-4-1101 to an individual in
5 Montana who is at least 21 years of age. An application for a winery license must be accompanied by a fee of
6 \$400, which constitutes the first annual license fee, and a licensee shall in each succeeding year pay an annual
7 fee as provided in 16-4-501. Winery licensees located in Montana must hold the appropriate basic permit
8 required by the United States department of the treasury and be qualified for a license in accordance with the
9 provisions of ~~16-4-401(4)~~ 16-4-401(2). Winery licensees located in another state must hold the appropriate
10 basic permit required by the United States department of the treasury and the appropriate license to
11 manufacture wine from the state in which the winery is located and shall provide all other information required
12 by the department.

13 (b) A winery located in Montana that is licensed to do business in the state shall, each quarter and
14 in the manner and form prescribed by the department, report to the department the amount of wine
15 manufactured or imported by the winery in the previous quarter and the winery's inventory. The department
16 may at any time examine a winery's books.

17 (2) (a) A winery that is not located in the state or an importer of table wines that holds the
18 appropriate license from the United States department of the treasury and that desires to distribute its table
19 wines within this state through licensed table wine distributors shall apply to the department ~~of revenue~~ for
20 registration on forms to be prepared and furnished by the department.

21 (b) Each winery shall furnish the department with a copy of each container label currently used by
22 the winery on its products imported into Montana. The department shall require the winery or importer to agree
23 to furnish monthly and other reports concerning quantities and prices of table wine that it ships into the state,
24 names and addresses of consignees, and any other information that the department may determine to be
25 necessary to ensure that importation and distribution of table wines within this state conform to the
26 requirements of this code.

27 (c) A winery or importer of table wines may not ship table wines into this state until the registration
28 is granted by the department. The registration may be canceled or suspended by the department upon a finding

1 after notice and hearing that the registrant has not complied with the terms of its registration.

2 (3) A winery that is not located in Montana, that holds the appropriate license from the United
3 States department of the treasury, that is not already registered with the department, and that desires to sell
4 and ship table wine directly to individuals in Montana who are at least 21 years of age shall apply to the
5 department for registration pursuant to subsection (2) and for a direct shipment endorsement pursuant to 16-4-
6 1101."

7

8 **Section 9.** Section 16-4-314, MCA, is amended to read:

9 **"16-4-314. Academic brewer license under small brewer exception -- Flathead valley**

10 **community college or Montana state university-Billings -- conditions.** (1) Flathead valley community
11 college or Montana state university-Billings may apply for an academic brewer license under this section that
12 allows the licensee to brew and sell beer to wholesalers as provided in this section. The academic brewer
13 license:

14 (a) does not allow for the sale of beer at retail and does not allow for the operation of a sample
15 room as provided in 16-3-213;

16 (b) is limited to production of 10,000 barrels annually;

17 (c) allows for distribution only to wholesalers as provided in 16-3-214;

18 (d) is under the ownership of Flathead valley community college or Montana state university-
19 Billings;

20 (e) is not subject to quotas under 16-4-105 or to the provisions of 16-3-306;

21 (f) may not offer gambling activities;

22 (g) is otherwise subject to laws applying to brewery licenses as provided in this code; and

23 (h) must operate in an on-campus facility operated in conjunction with a beer-brewing class or
24 curriculum taught at the community college or Montana state university-Billings.

25 (2) When Flathead valley community college or Montana state university-Billings has met the
26 conditions in subsection (3) and has paid the fee specified for a brewer under 16-4-501, the department shall
27 issue the academic brewer license.

28 (3) To obtain a license under this section, Flathead valley community college or Montana state

1 university-Billings shall:

2 (a) document approval by the community college district board of trustees or the board of regents
3 of higher education, as applicable;

4 (b) identify the on-campus location of the site where classes in beer making are to be held; and

5 (c) for criminal background requirements under 16-4-414, designate two or more individuals, each
6 of whom must have responsibility for licensing compliance and each of whom must meet the requirements in
7 16-4-401(2)(a)(4)(a).

8 (4) The department may adopt rules to implement this section."
9

10 **Section 10.** Section 16-4-401, MCA, is amended to read:

11 **"16-4-401. License as privilege -- criteria for decision on application -- restrictions.** (1) A license
12 under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is
13 entitled.

14 (2) Except as provided in 16-4-311 and subsection ~~(6)~~ (5) of this section and subject to subsection
15 (8), ~~in the case of a license that permits on-premises consumption,~~ the department shall find in every case in
16 which it makes an order for the issuance of a new license, ~~or for the approval of the transfer of a license, or the~~
17 renewal of a license that:

18 (a) if the applicant is an individual:

19 (i) ~~and the application is approved, the applicant will not possess an ownership interest in more than~~
20 ~~three establishments licensed under this chapter for all beverages sales. However, resort retail all-beverages~~
21 ~~licenses issued under 16-4-213 do not count toward this limit.~~

22 (ii) ~~the applicant does not possess an ownership interest in an agency liquor store as defined in 16-4-~~
23 ~~406 ;~~

24 (iii) ~~the applicant or any member of the applicant's immediate family is without financing from or any~~
25 ~~affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's~~
26 ~~spouse may possess an ownership interest in one or more manufacturer licenses;~~

27 (iv)(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
28 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance

1 with all applicable laws of the state and local governments; ~~however, nothing in this subsection (2)(a)(iv)~~
2 ~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax~~
3 ~~protestor when renewing the license;~~

4 ~~(v)(ii)~~ the applicant has not been convicted of a felony or, if the applicant has been convicted of a
5 felony, the applicant's rights have been restored; and

6 ~~(vi)(iii)~~ the applicant is not under 19 years of age;

7 (b) if the applicant is a publicly traded corporation:

8 (i) ~~each owner of 15% or more of the outstanding stock meets the requirements for an individual~~
9 ~~applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the~~
10 ~~applicant shall designate two or more officers or board members, each of whom must meet the requirements~~
11 ~~for an individual applicant listed in subsection (2)(a);~~

12 (ii) each individual who has control over the operation of the license meets the requirements for an
13 individual applicant listed in subsection (2)(a); and

14 ~~(iii) each person who shares in the profits or liabilities of a license meets the requirements for an~~
15 ~~individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a~~
16 ~~corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of~~
17 ~~subsection (8) apply.~~

18 ~~(iv)(iii)~~ the corporation is authorized to do business in Montana;

19 (c) if the applicant is a privately held corporation, all of the following must apply:

20 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
21 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the
22 applicant shall designate two or more officers or board members, each of whom must meet the requirements
23 for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet
24 the requirements of subsection (2)(a).

25 (ii) each individual who has control over the operation of the license meets the requirements for an
26 individual applicant listed in subsection (2)(a);

27 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
28 individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a

1 corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of
2 subsection ~~(8)~~ (7) apply.

3 (iv) the corporation is authorized to do business in Montana;

4 (d) if the applicant is a general partnership, each partner must meet the requirements of
5 subsection (2)(a);

6 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
7 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
8 requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
9 limited partners must meet the requirements of subsection (2)(a).

10 (f) if the applicant is a limited liability company, ~~;~~

11 (i) all managing members and those members whose ownership interest in the company equals
12 or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or
13 exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

14 (ii) the limited liability company is authorized to do business in Montana;

15 (g) if the applicant is a trust, the trustee must meet the requirements of subsection (2)(a);

16 (h) if the applicant is a nonprofit organization:

17 (i) the applicant shall designate two or more officers or board members, each of whom must meet
18 the requirements for an individual applicant listed in subsection (2)(a); and

19 (ii) the nonprofit organization is authorized to do business in Montana;

20 (i) if the applicant is a cooperative association:

21 (i) the applicant shall designate two or more officers or board members, each of whom must meet
22 the requirements for an individual applicant listed in subsection (2)(a); and

23 (ii) the cooperative association is authorized to do business in Montana.

24 ~~(3) In the case of a license that permits only off-premises consumption and subject to subsection (8),~~
25 ~~the department shall find in every case in which it makes an order for the issuance of a new license or for the~~
26 ~~approval of the transfer of a license that:~~

27 ~~(a) if the applicant is an individual:~~

28 ~~(i) and the application is approved, the applicant will not possess an ownership interest in more than~~

- 1 ~~three establishments licensed under this chapter for all beverages sales;~~
- 2 ~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-~~
- 3 ~~406;~~
- 4 ~~(iii) the applicant or any member of the applicant's immediate family is without financing from or any~~
- 5 ~~affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;~~
- 6 ~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,~~
- 7 ~~the applicant's rights have been restored;~~
- 8 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
- 9 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance~~
- 10 ~~with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v)~~
- 11 ~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax~~
- 12 ~~protestor when renewing the license; and~~
- 13 ~~(vi) the applicant is not under 19 years of age;~~
- 14 ~~(b) if the applicant is a publicly traded corporation:~~
- 15 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed~~
- 16 ~~in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall~~
- 17 ~~designate two or more officers or board members, each of whom must meet the requirements for an individual~~
- 18 ~~applicant listed in subsection (3)(a).~~
- 19 ~~(ii) the corporation is authorized to do business in Montana;~~
- 20 ~~(c) if the applicant is a privately held corporation:~~
- 21 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual~~
- 22 ~~applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the~~
- 23 ~~applicant shall designate two or more officers or board members, each of whom must meet the requirements~~
- 24 ~~for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet~~
- 25 ~~the requirements of subsection (3)(a).~~
- 26 ~~(ii) the corporation is authorized to do business in Montana;~~
- 27 ~~(d) if the applicant is a general partnership, each partner must meet the requirements of subsection~~
- 28 ~~(3)(a);~~

1 ~~(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all~~
2 ~~limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the~~
3 ~~requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all~~
4 ~~limited partners must meet the requirements of subsection (3)(a).~~

5 ~~(f) if the applicant is a limited liability company, all managing members and those members whose~~
6 ~~ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If~~
7 ~~no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of~~
8 ~~subsection (3)(a).~~

9 ~~(4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or~~
10 ~~wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the~~
11 ~~issuance of a new license or for the approval of the transfer of a license that:~~

12 ~~(a) if the applicant is an individual:~~

13 ~~(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail~~
14 ~~alcoholic beverages sales;~~

15 ~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-~~
16 ~~406;~~

17 ~~(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,~~
18 ~~the applicant's rights have been restored;~~

19 ~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
20 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance~~
21 ~~with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv)~~
22 ~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax~~
23 ~~protector when renewing the license;~~

24 ~~(v) the applicant is not under 19 years of age; and~~

25 ~~(vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or~~
26 ~~controlled by a manufacturer of an alcoholic beverage;~~

27 ~~(b) if the applicant is a publicly traded corporation:~~

28 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed~~

1 in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall
2 designate two or more officers or board members, each of whom must meet the requirements for an individual
3 applicant listed in subsection (4)(a).

4 (ii) ~~an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
5 controlled by a manufacturer of an alcoholic beverage; and~~

6 (iii) ~~the corporation is authorized to do business in Montana;~~

7 (c) ~~if the applicant is a privately held corporation:~~

8 (i) ~~each owner of 15% or more of the outstanding stock meets the requirements for an individual
9 applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the
10 applicant must designate two or more officers or board members, each of whom must meet the requirements
11 for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet
12 the requirements of subsection (4)(a).~~

13 (ii) ~~an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or
14 controlled by a manufacturer of an alcoholic beverage; and~~

15 (iii) ~~the corporation is authorized to do business in Montana;~~

16 (d) ~~if the applicant is a general partnership, each partner must meet the requirements of subsection
17 (4)(a);~~

18 (e) ~~if the applicant is a limited partnership or a limited liability partnership, each general partner and all
19 limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
20 requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
21 limited partners must meet the requirements of subsection (4)(a).~~

22 (f) ~~if the applicant is a limited liability company, all managing members and those members whose
23 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If
24 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
25 subsection (4)(a).~~

26 (3) The applicant and any individual of the applicant who must meet the requirements of (2)(a)
27 must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this
28 subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an

1 income tax protestor when renewing the license.

2 ~~(5)~~4 In the case of a corporate applicant, the requirements of subsections (2)(b), ~~(3)(b)~~, and ~~(4)(b)~~ or
3 ~~(2)(c)~~ apply separately to each class of stock.

4 ~~(6)~~5 The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant
5 to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107.

6 ~~(7)~~6 An applicant's source of funding must be from a suitable source. A lender or other source of
7 money or credit may be found unsuitable if the source:

8 (a) is a person whose prior financial or other activities or criminal record:

9 (i) poses a threat to the public interest of the state;

10 (ii) poses a threat to the effective regulation and control of alcoholic beverages; or

11 (iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed
12 business; or

13 (b) has been convicted of a felony ~~offense within 5 years of the date of application or is on~~
14 ~~probation or parole or under deferred prosecution for committing a felony offense, unless the person's rights~~
15 have been restored.

16 ~~(8)~~ ~~(a)~~ An individual applying for an all-beverages license or having any ownership interest in an
17 entity applying for an all-beverages license may not, if the application were to be approved, own an interest in
18 more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

19 ~~(b)~~ If two or more individuals through business or family relationship share in the profits or liabilities of
20 all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not
21 exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-
22 beverages licenses will be held.

23 ~~(9)~~7 (a) Except as specifically provided in this code relating to financial interests in licenses, nothing
24 in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a
25 licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make
26 purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within
27 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000
28 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

1 (b) A licensee's use of short-term financing of 90 days or less from institutional lenders and
2 noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

3 (c) It is the intent of this subsection ~~(9)~~(7) to facilitate the efficient administration of an entity
4 licensed under this code.

5 (8) (a) An individual applying for an all-beverages license or having any ownership interest in an
6 entity applying for an all-beverages license may not, if the application were to be approved, own an interest in
7 more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

8 (b) If two or more individuals through a business or family relationship share in the profits or
9 liabilities of all-beverages licenses, the aggregate number of licenses in which they share in the profits or
10 liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in
11 which the all-beverages licenses will be held.

12 (c) An applicant applying for an all-beverages license and any individual of the applicant who must
13 meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an
14 ownership interest in more than three establishments licensed under this chapter for all-beverages sales.
15 However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

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

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

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

27 (g) An applicant for a manufacturing, importing, or wholesaling license and any individual of the
28 applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any

1 establishment licensed under this chapter for retail alcoholic beverage sales.

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

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

8
9 COORDINATION SECTION. SECTION 12. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 539
10 AND [THIS ACT] ARE PASSED AND APPROVED AND BOTH CONTAIN A SECTION AMENDING 16-3-311, THEN THE SECTIONS
11 AMENDING 16-3-311 ARE VOID AND 16-3-311 MUST BE AMENDED AS FOLLOWS:

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

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

1 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent
2 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the
3 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.
4 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved
5 alteration due to modifications required for approval by other state or local government entities, such as
6 compliance with fire or building codes, the department must be notified, but preapproval is not required for
7 these modifications. An alteration for the purposes of this section is any structural change in a premises that
8 does not increase the square footage of the existing approved premises. An alteration that increases the
9 square footage of the existing approved premises must be approved by the department prior to beginning the
10 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
11 alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the
12 inspections by local government agencies may not be required for department approval.

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

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

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

23 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is
24 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its
25 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to
26 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
27 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is
28 \$100. On department approval, an on-premises consumption retailer's keg storage and beer lines running into

1 the licensed premises may be in a noncontiguous storage area provided that the licensee is able to maintain
2 control and adequate safeguards are in place to prevent public access.

3 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the
4 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the
5 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the
6 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent
7 underage service. The application fee is \$100.

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

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

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

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

17 (b) The term does not require permanent floor-to-ceiling walls."
18

19 NEW SECTION. Section 13. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [SECTIONS
20 [SECTIONS 1 THROUGH 5 4 AND 7] ARE EFFECTIVE JULY 1, 2024.

21 (2) [SECTIONS [6 THROUGH 8 8 THROUGH 10-12] AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND
22 APPROVAL.

23 (3) [SECTIONS 5 AND 6] ARE EFFECTIVE OCTOBER 1, 2023.

24 - END -