HOUSE BILL NO. 711
INTRODUCED BY R. MARSHALL

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING ALCOHOL LAWS RELATING TO COLLECTION OF PAYMENT FOR DELIVERIES OF BEER AND WINE; ELIMINATING THE 7-DAY CREDIT LIMITATION AND PROVIDING FOR CASH ON DELIVERY; REVISING LIEN LAWS RELATED TO ALCOHOL DELIVERIES; ALLOWING FOR AN ELECTRONIC FUNDS TRANSFER; AND AMENDING SECTIONS 16-3-243, 16-3-406, AND 16-4-404, MCA.”

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

Section 1. Section 16-3-243, MCA, is amended to read:

“16-3-243. Seven-day credit limitation Cash on delivery. (1) A sale or delivery of beer shall may not be made to any retail licensee except for cash paid within 7 days after on the delivery thereof of the beer, and in no event shall any A brewer, beer importer, or wholesaler may not extend more than 7 days' credit on account of such the beer to a retail licensee, nor shall any a retail licensee may not accept or receive delivery of such the beer without agreement to pay in cash therefor within 7 days from for its delivery thereof. A An electronic funds transfer or a correctly dated check which that is honored upon presentment shall when presented may be considered as cash within the meaning of this code.

(2) Any extension or acceptance of credit in violation hereof of this section shall be regarded and is construed as to be rendering or receiving financial assistance, and the licenses of brewers, beer importers, wholesalers, and retail licensees involved in the violation hereof must be suspended or revoked, as determined by the department in its discretion.”

Section 2. Section 16-3-406, MCA, is amended to read:

“16-3-406. Financial interest in retailers prohibited. (1) A winery or table wine distributor may not advance or loan money to, or furnish money for, or pay for or on behalf of any retailer any license or tax that may be required to be paid by any retailer, and a winery or table wine distributor may not be financially
interested, either directly or indirectly, in the conduct or operation of the business of a retailer.

(2) A winery or table wine distributor is considered to have a financial interest if:

(a) the winery or table wine distributor owns or holds any interest in or a lien or mortgage against
the retailer or the retailer’s premises; or

(b) the winery or table wine distributor is under any contract with a retailer concerning future
purchases or the sale of merchandise by one from or to the other; or

(c) the table wine distributor extends more than 7 days’ credit to a retail licensee or furnishes to
any retail licensee any furniture, fixtures, or equipment to be used in the dispensation or sale of table wine; or

(d) any retailer holds an interest as a stockholder, or otherwise, in the business of the table wine
distributor."

Section 3. Section 16-4-404, MCA, is amended to read:

"16-4-404. Protest period -- contents of license -- posting -- privilege -- transfer. (1) A license
may not be issued until on or after the date set in the notice for hearing protests.

(2) Every license issued under this code must state the name of the person to whom it is issued,
the location, by street and number or other appropriate specific description of location if no street address
exists, of the premises where the business is to be carried on conducted under the license, and other
information the department considers necessary. If the licensee is a partnership or if more than one person has
an interest in the business operated under the license, the names of all persons in the partnership or interested
in the business must appear on the license. Every license must be posted in a conspicuous place on the
premises in which the business authorized under the license is conducted, and the license must be exhibited
upon request to any authorized representative of the department or the department of justice or to any
peace officer of the state of Montana.

(3) A license issued under the provisions of this code is a privilege personal to the licensee named
in the license and is valid until the expiration of the license, unless sooner the license is revoked or suspended
earlier.

(4) A license may be transferred to the executor or administrator of the estate of a deceased
licensee when the estate consists in whole or in part of the business of selling alcoholic beverages under a
The license may descend or be disposed of with the licensed business under appropriate probate proceedings.

(5) A licensee may apply to the department for a transfer of the license to different premises within the quota area if:

(i) there has been major loss or damage to the licensed premises by unforeseen natural causes;

(ii) the lease of the licensed premises has expired;

(iii) in case of rented licensed premises, there has been an eviction or increase of rent by the landlord; or

(iv) the licensee has proposed removal of the license to premises that are as substantially suited for the retail alcoholic beverages business as the premises proposed to be vacated.

(b) The department may, after notice and opportunity for protest, permit a transfer in the cases specified in subsection (5)(a) if it appears to the department that a transfer is required to do justice to the licensee applying for the transfer and the transfer is justified by public convenience and necessity, pursuant to 16-4-203, unless a public convenience and necessity hearing is required by 16-4-207. The department may not allow a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than facilities that exist or had existed at the premises from which the transfer is proposed to be made.

(6) Upon a bona fide sale of the business operated under a license, the license may be transferred to a qualified purchaser. A transfer of a license to a person or location is not effective unless approved by the department. A licensee or transferee or proposed transferee who operates or attempts to operate under a supposedly transferred license prior to the approval of the transfer by the department, endorsed upon on the license in writing, is considered to be operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval if there has not been a change in location and the application for transfer has been filed with the department.

(7) Except as provided in 16-4-204 and subsections (2) through (6) of this section, a license may not be transferred or sold or used for any place of business not described in the license. A license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license. Beer or wine sold to a licensee on credit
pursuant to 16-3-243 or 16-3-406 does not create a lien upon a license, but a subsequent licensee has the obligation to pay for the beer or wine.

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