

WINE LAWS

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: Montana's alcoholic beverage code (Title 16) provides a definition of wine, table wine, and sacramental wine. The definitions vary mainly in the amount of alcohol by volume. Wine can have up to 24% of alcohol by volume, but the main subset of wine--table wine--contains not more than 16% alcohol by volume. In Montana the definition of "table wine" also includes "cider," which is separately defined under "hard cider" as "an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 6.9% of alcohol by volume... ." Wine laws relate to:

- **Wine Retail Sales.**
 - For off-premises consumption: Sales may be from a winery, an agency liquor store, a grocery, a pharmacy, a stand-alone wine shop, or from sales in the original packaging from a bar with an all-beverage license or an on-premises licensee (bar or restaurant) with a beer license and wine amendment.
 - For on-premise consumption. On-premises sales can be at a winery or at a restaurant or a bar.
- **Licensing.** Excluding county beer licenses with wine amendments, other on-premises licenses are limited by population quotas. The beer (with wine amendment) licenses have had a quota since 1975. The restaurant beer and wine license, created in 1997, requires a certain amount of food inventory.
 - An on-premises license includes an all-beverage license, a beer license with a wine amendment, a restaurant beer and wine license, also known as a cabaret license, and various specialty licenses.
 - An off-premises license requires sales in the original packaging. (See above under off-premises sales.)
 - Special permits, instead of licenses, allow certain tax-exempt organizations, including Montana postsecondary schools, to serve beer and table wine at events on a limited basis. Special permits also cover seasonal sporting events under certain conditions and on-premises sales at veterans' posts or fraternal lodges that do not have a license.
 - A catering endorsement allows a licensee with either an all-beverage license, a beer license (with or without a wine amendment), or a restaurant beer and wine license to cater and sell beer or wine at special events held at locations not otherwise licensed for the sale of beer or wine. For a restaurant

beer and wine license with a catering endorsement, food costs must equal 65% of total gross catering revenue. Catered wine or beer must be consumed on the premises where the event is held.

- **Manufacturing.** An annual winery license is in addition to permits required by federal law. A U.S. Supreme Court decision found that out-of-state wineries could not be treated differently than in-state wineries. This affected distribution laws then in effect. See below for those changes. Statutes on licensing wineries show a 1987 start.
- **Distribution.** A licensed and bonded winery may distribute directly to retailers. Wineries (no matter where located) with a direct shipment endorsement may ship table wine (not more than 16% alcohol by volume) directly to an individual who is at least 21 years of age. [SB 127](#) in 2007 was enacted in part to address a U.S. Supreme Court decision, *Granholm v. Heald*, 544 U.S. 460 (2005), that held laws in New York and Michigan as unconstitutional because they allowed in-state, not out-of-state, wineries to ship wine directly to consumers. A licensed table wine distributor may distribute directly to retailers. The state's liquor warehouse may distribute wine with more than 16% alcohol by volume to agency liquor stores.

In 2019 there was a bill that addressed taxation of wine and cider, which passed, and bills seeking changes for special events and for restaurant beer and wine licenses, which did not pass. Prior sessions saw bills related to sales of fortified wine and sacramental wine. One bill would have allowed off-premises beer and wine licensees to sell fortified wine instead of just table wine, which is the current limitation. Sacramental wine has a markup of 20%. In contrast, fortified wine with more than 16% but not more than 24% alcohol by volume has a markup of 51%. (See 16-1-404, MCA.)

Legislative Services Division Materials:

[Update](#) on Alcoholic Beverage Auctions, presented at September 2018 Economic Affairs Interim Committee meeting.

Other Materials:

Montana Department of Revenue produces [reports](#) on the activities of the Alcoholic Beverage Control Division.

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2019

[HB 84](#) – (Chapter Number Assigned) – "AN ACT REVISING TAXATION AND REPORTING LAWS FOR WINE AND HARD CIDER; REVISING THE PROCESS FOR REGISTERED WINERIES TO PAY TAXES; PROVIDING FOR ELECTRONIC FILING OF RETURNS AND PAYMENT OF TAXES FOR WINERIES; AND AMENDING SECTIONS 16-1-411, 16-3-411, AND 16-4-1102, MCA."

[HB 250](#) – (Died in Process) – "AN ACT EXTENDING THE CONDITIONS FOR A WINERY TO SELL UNDER SPECIAL EVENT PERMITS; AMENDING SECTIONS 16-3-103, 16-4-301, 16-4-501, AND 16-4-1002, MCA; AND PROVIDING AN EFFECTIVE DATE."

2017

[HB 549](#) – (Died in Standing Committee) - "AN ACT CREATING AN ALCOHOL PERMIT FOR BUSINESS IMPROVEMENT DISTRICTS AND URBAN RENEWAL AREAS; CREATING LICENSE REQUIREMENTS; REQUIRING CITY APPROVAL; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 16-4-501, MCA."

[SB 191](#) – (Died in Process) - : "AN ACT INCREASING THE TAX RATE FOR WINE; AMENDING SECTION 16-1-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

[SJ 26](#) - (Died in Process) - REQUESTING AN INTERIM STUDY OF THE ROLE THAT DISTRIBUTION HAS IN THE THREE-TIER ALCOHOL REGULATORY CONTROL SYSTEM RELATING TO BEER AND WINE.

2015

[HB 528](#) – (Missed Deadline for General Transmission) – “ALLOWING BEER AND WINE PURCHASED AT PERMITTED SPECIAL EVENTS TO BE TAKEN OFF PREMISES IN ORIGINAL, UNOPENED CONTAINERS; AND AMENDING SECTION 16-4-301, MCA.”

[HB 619](#) - (Missed Deadline for Revenue Bill Transmission) – “REVISING THE QUOTA SYSTEM FOR ISSUING RESTAURANT BEER AND WINE LICENSES; INCREASING THE NUMBER OF RESTAURANT BEER AND WINE LICENSES THAT MAY BE ISSUED IN A QUOTA AREA; PROVIDING TRANSFER RESTRICTIONS ON CERTAIN NEW RESTAURANT BEER AND WINE LICENSES; PROVIDING A PHASE-OUT OF THE QUOTA SYSTEM FOR RESTAURANT BEER AND WINE LICENSES; PROVIDING A TRANSITION SECTION TO ELIMINATE THE QUOTA SYSTEM FOR AREAS THAT ARE NOT SUBJECT TO QUOTA LIMITATIONS; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN EFFECTIVE DATE.”

[HB 625](#) - (Missed Deadline for Revenue Bill Transmission) – “CREATING A LIMITED SPECIAL PERMIT FOR WINE SALES BY TOURISM, CULTURAL, ARTISTIC, EDUCATIONAL, AND OTHER ENTITIES.”

2013

[HB 204](#) – (Died in Standing Committee) – “AUTHORIZING A BOUTIQUE BEER OR WINE LICENSE FOR THE OFF-PREMISES CONSUMPTION OF BEER OR WINE AT A SPECIALTY SHOP; PROVIDING FOR A STREAMLINED TRANSFER FROM AN EXISTING OFF-PREMISES BEER OR WINE LICENSE TO A BOUTIQUE LICENSE; AUTHORIZING LIMITED TASTING EVENT PERMITS ON THE PREMISES OF THE BOUTIQUE BEER OR WINE LICENSEE; ESTABLISHING REQUIREMENTS FOR A BEER OR WINE TASTING EVENT PERMIT; PROVIDING PENALTIES; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTION 16-3-306, MCA; AND PROVIDING AN EFFECTIVE DATE.”

[HB 402](#) - (Chapter Number Assigned) – “REVISING LAWS RELATED TO THE DIRECT SHIPMENT OF TABLE WINE TO INDIVIDUAL CONSUMERS; PROVIDING FOR A DIRECT SHIPMENT ENDORSEMENT TO WINERIES FOR SELLING DIRECTLY TO INDIVIDUAL CONSUMERS IN MONTANA; PROVIDING REQUIREMENTS AND FEES FOR A WINERY WITH A DIRECT SHIPMENT ENDORSEMENT; PROVIDING PENALTIES; EXTENDING RULEMAKING AUTHORITY; REVISING THE CONNOISSEUR'S LICENSE TO ELIMINATE ITS APPLICATION TO WINE; AND AMENDING SECTIONS 16-1-411, 16-3-402, 16-3-411, 16-4-107, 16-4-901, 16-4-902, 16-4-903, 16-4-906, AND 16-6-301, MCA.”

[HB 424](#) - (Died in Standing Committee) – “AUTHORIZING WINE TASTING EVENT PERMITS ON THE PREMISES OF CERTAIN RETAILERS LICENSED FOR THE SALE OF TABLE WINE FOR OFF-PREMISES CONSUMPTION; ESTABLISHING REQUIREMENTS FOR WINE-TASTING EVENT PERMITS; PROVIDING PENALTIES; AND AMENDING SECTION 16-4-115, MCA.”

[HB 425](#) - (Died in Standing Committee) – “REVISING LAWS RELATED TO THE SALE OF FORTIFIED WINE; AUTHORIZING THE SALE OF FORTIFIED WINE BY A PERSON LICENSED TO SELL BEER OR WINE FOR OFF-PREMISES CONSUMPTION; ALLOWING THE DIRECT PURCHASE OF FORTIFIED WINE FROM AN AGENCY LIQUOR STORE BY A PERSON LICENSED TO SELL BEER OR WINE FOR OFF-PREMISES CONSUMPTION; ALLOWING TABLE WINE DISTRIBUTORS TO DISTRIBUTE FORTIFIED WINE; REVISING TAXES RELATED TO SALES OF FORTIFIED WINE; AND AMENDING SECTIONS 16-1-106, 16-1-201, 16-1-411, 16-2-101, 16-2-103, 16-2-106, 16-2-203, 16-2-301, 16-3-106, 16-3-218, 16-3-301, 16-3-402, 16-3-403, 16-3-404, 16-3-405, 16-3-406, 16-3-411, 16-3-415, 16-3-416, 16-3-418, 16-3-419, 16-4-107, 16-4-108, AND 16-4-115, MCA.”

[HB 524](#) - (Chapter Number Assigned) – “REVISING THE REQUIREMENT THAT RETAIL LICENSES FOR SELLING BEER OR WINE FOR OFF-PREMISES CONSUMPTION BE OPERATED AS A BONA FIDE GROCERY STORE OR A DRUGSTORE LICENSED AS A PHARMACY; AND AMENDING SECTION 16-4-115, MCA.

[SB 266](#) - (Chapter Number Assigned) – “REVISING LAWS RELATED TO SACRAMENTAL WINE; AMENDING SECTIONS 16-1-106, 16-1-411, 16-3-218, 16-3-402, 16-4-108, AND 16-4-313, MCA; AND PROVIDING AN EFFECTIVE DATE.”

[SB 268](#) – (Died in Standing Committee) – “ALLOWING WINERIES WITHIN A 100-MILE RADIUS TO SELL LOCALLY PRODUCED WINE AT PUBLIC MARKETS OR FARMER’S MARKETS IN MONTANA; AMENDING SECTIONS 7-21-3303, 16-3-411, AND 50-50-202, MCA; AND PROVIDING AN EFFECTIVE DATE.”

2011 – None introduced

2009

[HB 195](#) – (Chapter Number Assigned) – “REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

[HB 234](#) - (Died in Standing Committee) – “AUTHORIZING WINE OR BEER TASTING EVENTS ON THE PREMISES OF GROCERY STORES AND DRUGSTORES THAT ARE LICENSED FOR THE SALE OF BEER OR WINE FOR OFF-PREMISES CONSUMPTION; REQUIRING A PERMIT FOR A TASTING EVENT; PROVIDING RESTRICTIONS ON TASTING EVENTS; AND AMENDING SECTION 16-4-115, MCA.”

[HB 297](#) – (Died in Standing Committee) – “AUTHORIZING THE ON-PREMISES SALE OF FORTIFIED WINE UNDER A BEER AND WINE LICENSE; AUTHORIZING A BEER AND WINE LICENSEE TO PURCHASE FORTIFIED WINE AT AN AGENCY LIQUOR STORE; AND AMENDING SECTIONS 16-1-106, 16-3-301, AND 16-4-105, MCA.”

[HB 621](#) – (Chapter Number Assigned) – “PROVIDING THAT AN EXISTING RETAIL BEER OR BEER AND WINE LICENSE FOR A FAIRGROUNDS COMPLEX MAY BE TRANSFERRED TO A POLITICAL SUBDIVISION OF THE STATE UNDER CERTAIN CIRCUMSTANCES; GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF REVENUE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[SB 511](#) (Chapter Number Assigned) – “ESTABLISHING A SACRAMENTAL WINE LICENSE FOR THE RETAIL SALE OF SACRAMENTAL WINE TO A CHURCH OR OTHER ESTABLISHED RELIGIOUS ORGANIZATION EXCLUSIVELY FOR OFF-PREMISES USE; AMENDING SECTION 16-1-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

Prepared By:

Pat Murdo, Research Analyst

Office of Research and Policy Analysis