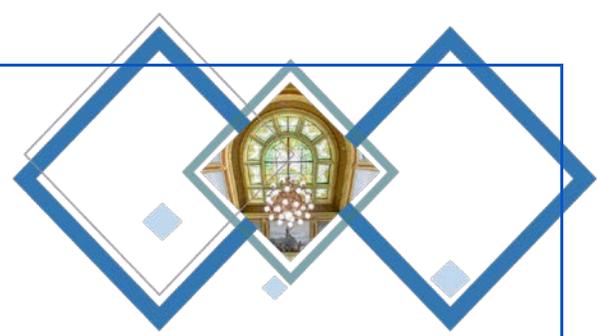


April 2018

Economic Affairs Interim Committee
Pat Murdo, Committee Staff



BACKGROUND BRIEF:

LIQUOR CONTROL DIVISION

The Liquor Control Division in the Department of Revenue came under the monitoring duties of the Economic Affairs Interim Committee as a result of passage of House Bill 16 in the 2017 session. The main reason for separating the Liquor Control Division oversight from the overall Department of Revenue, monitored by the Revenue and Transportation Interim Committee, was because the Economic Affairs Interim Committee generally has among its members legislators who have heard liquor-related bills during their time on the Senate Business, Labor, and Economic Affairs or House Business and Labor standing committees. The April overview is the first for this committee for the Liquor Control Division.

Goals

The Division's website <https://mtrevenue.gov/about/liquor-control/> lists its goals as providing "effective and efficient administration of the Montana alcoholic beverage code with an emphasis on customer service and public safety by applying uniform and fair regulations while ensuring an orderly system for the convenient distribution and responsible consumption of alcoholic beverages."

Duties: Administered Through Licensing or Regulation

Through three bureaus and an education and training program, the Division:

- Licenses manufacturers, importers, retailers, and distributors of alcoholic beverages;
- Collaborates with the Department of Justice and local law enforcement for pre-licensing investigations and for investigation of public complaints and other enforcement;
- Oversees operations of agency liquor stores and distribution through the state liquor warehouse through which almost all liquor and fortified wine products must be handled (exceptions are allowed for some locally produced goods); and
 - Oversees the training and education under the Responsible Alcohol Sales and Service Act.

By the Numbers (FY 2017):

Agency Liquor Stores	96
All-Beverages Licenses	1,558
Beer (On Premises) (Off-Premises)	56 83
Beer + Wine Amendment Off-Premises	481 817
Restaurant Beer & Wine	246

Funding

The Liquor Control Division operates as a business, using proprietary funding from fees and taxes assessed under Title 16, MCA. Revenues that exceed the requirements for running the division go either to the general fund or to specific health programs. See below for the Liquor Control Division's biennial FY 2019 budget amounts.

FY 2018-2019 Budget

The Liquor Control Division budget in House Bill 2:

- \$2,788,254 for FY 2018
- \$2,795,578 for FY 2019

Revenues in excess of the budgeted amounts go to the general fund or to certain health programs.

Revenue Source	Actual FY 2016	Proposed FY 2017	Proposed FY 2018	Proposed FY 2019
Beer Tax	\$3,028,484	\$3,000,863	\$3,030,000	\$3,028,000
Liquor Excise Tax	\$19,725,324	\$20,367,170	\$21,677,000	\$22,683,000
Liquor Profits	\$11,000,000	\$11,750,000	\$12,435,000	\$13,085,000
Wine Tax	\$2,371,085	\$2,423,873	\$2,479,000	\$2,547,000

Topics of Interest

- Implementation of Senate Bill 5 from the 2017 special session, allowing liquor and beer and wine license auctions and separating previously combined quota areas.
- A silo approach to licensing, which means liquor license owners cannot have a brewery license, etc.
- Montana’s quota system in which licenses are limited based on population and hold a value used by banks for collateral or owners for pension equivalents.
- The interdependent three-tiered system of production, distribution, and sales.
- The connection between gambling operations and some license types.
- Numerous exemptions and rule-dependent regulations.
- Interdependent enforcement that relies on Department of Justice and Department of Revenue cooperation and collaboration along with city and county teamwork.

Manufacturers FY 2016	
Breweries	80
Wineries	20
Distillers	21

Distributors FY 2016	
Beer	2
Wine	7
Beer + Wine	20

Significant 2017 Legislation

- **HB 16** – Included Liquor Control Division under the monitoring duties of the Economic Affairs Interim Committee.
- **HB 428** – Revised how retail beer licenses are awarded if there are multiple applicants by providing for a lottery (revised to an auction by SB 5 in the 2017 Special Session).
- **HB 462** – Created an academic brewers license for Flathead Valley Community College and Montana State University-Billings to brew beer and sell to wholesalers in conjunction with brewing classes.
- **HB 541** – Expanded to 60,000 (from 20,000) barrels the top amount a brewer can produce and still be called a small brewery eligible for sample room sales. Removed the mid-tier tax on 10,000 to 20,000 barrels; taxes all beer produced over 10,000 barrels at \$4.30 a barrel. Limits on-premises sales to no more than 2,000 barrels whether acting as one or as up to three affiliated manufacturers.
- **SB 344** – Allows regulated lenders to use liquor licenses as collateral in same credit and structural terms as other collateral transactions under specific conditions.
- **SB 5, Special Session** – Establishes a competitive bidding process for all-beverage licenses, retail beer licenses, and restaurant beer and wine licenses in cases of quota expansion. Revises the 5-mile overlapping quota license terms.

April 2018

Background Brief: Liquor Control Division
Economic Affairs Interim Committee

History

After prohibition ended in 1933, the 21st Amendment to the U.S. Constitution allowed states to control transportation, importation, possession, or use of intoxicating liquors. Montana and 16 other states, along with jurisdictions in four other states, operate as “control jurisdictions.” Among neighboring states, Idaho and Wyoming are also control jurisdictions as are Oregon and Utah. Other than Iowa, all the remaining control jurisdictions are east of the Mississippi River. Other states are “open jurisdictions.” Montana’s policy underlying controls outlined in the Alcoholic Beverage Code, Title 16, MCA, is “for the protection, health, welfare, and safety of the people of the state.” (16-1-103, MCA)

According to informationⁱ from the Department of Revenue, control jurisdictions:

- Promote moderation (consumption of distilled spirits is estimated to be 14.3% lower in control jurisdictions compared with open states);
- Support treatment, rehabilitation, and prevention of alcoholism and chemical dependency through use of some of the revenues from liquor taxes;
- Improve community safety through education, regulation, and enforcement; and
- Provide revenues to the state, because tax collections above what is needed to run the Liquor Control Division go to the state’s general fund or to the Department of Public Health and Human Services as mentioned above.

The quota system that limits licenses under Title 16, MCA, began in 1937 and distinguishes the Montana system. Tavern owners rely on their liquor licenses as investments and sometimes as collateral. For information about quotas, see Department of Revenue data at <https://mtrevenue.gov/wp-content/uploads/2018/02/2018-02-27-Quota-Sheet.pdf>.

System expansions have included creation of a restaurant beer and wine license in 1997. These licenses do not allow gaming and are subject to quotas, as provided in 16-4-420, MCA. One of the larger changes impacting the industry came in 1999 with a decision to allow limited sales for on-site consumption at small breweries, those that produce less than 60,000 barrels a year. Under Montana’s regulatory system (and federal “tied-house” laws), license holders in one tier of the system are generally not allowed to hold a license in another tier. This prevents most businesses from being vertically integrated (or dominant). But limited exceptions that have developed and that allow some integration of functions have meant that stakeholders across the tiers have sought for more allowances in recent years. To date, distributors, manufacturers, and retailers have not presented a unified agreement to a legislative session despite legislative urging to do so. As explained at one Economic Affairs Committee meeting in 2016,ⁱⁱ each attempt to expand one of the three pieces (tiers) of the pie means that the stakeholders in another tier would most likely see their piece of the pie diminished.

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ⁱ Montana Department of Revenue, Montana Alcohol Beverage Control, Presentation for the 2015 House Business and Labor Committee and the Senate Business, Labor, and Economic Affairs Committee. See p. 2.

ⁱⁱ See the minutes for the June 22, 2016, Economic Affairs Interim Committee meeting at: <http://leg.mt.gov/css/Committees/Interim/2015-2016/Economic-Affairs/Meetings/June-2016/june-2016.asp>.