

1 **** BILL NO. ****

2 INTRODUCED BY ****

3 BY REQUEST OF THE ****

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOL LICENSING LAWS TO ALLOW AN
6 APPLICANT FOR AN ON-PREMISES ALCOHOL LICENSE TO HAVE A SPOUSE THAT IS AFFILIATED OR
7 HAS FINANCING FROM A MANUFACTURER OF ALCOHOLIC BEVERAGES; AMENDING SECTION 16-4-
8 401, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 16-4-401, MCA, is amended to read:

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

15 (2) Except as provided in 16-4-311 and subsection (6) of this section and subject to subsection (8), in
16 the case of a license that permits on-premises consumption, the department shall find in every case in which it
17 makes an order for the issuance of a new license or for the approval of the transfer 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 16-1-
23 106;

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 a manufacturer license;

27 (iv) 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; and

2 (v) the applicant is not under 19 years of age;

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

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

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

10 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
11 individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a
12 corporation who owns less than 10% of the outstanding stock in that corporation except that the provisions of
13 subsection (8) apply.

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

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

16 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual
17 applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the
18 applicant shall designate two or more officers or board members, each of whom must meet the requirements
19 for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet
20 the requirements of subsection (2)(a).

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

23 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
24 individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a
25 corporation who owns less than 10% of the outstanding stock in that corporation except that the provisions of
26 subsection (8) apply.

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

28 (d) if the applicant is a general partnership, each partner must meet the requirements of subsection

1 (2)(a);

2 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all
3 limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the
4 requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all
5 limited partners must meet the requirements of subsection (2)(a).

6 (f) if the applicant is a limited liability company, all managing members and those members whose
7 ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (2)(a). If
8 no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of
9 subsection (2)(a).

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

13 (a) if the applicant is an individual:

14 (i) and the application is approved, the applicant will not possess an ownership interest in more than
15 three establishments licensed under this chapter for all-beverages sales;

16 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-
17 106;

18 (iii) the applicant or any member of the applicant's immediate family is without financing from or any
19 affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

20 (iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,
21 the applicant's rights have been restored;

22 (v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
23 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
24 with all applicable laws of the state and local governments; and

25 (vi) the applicant is not under 19 years of age;

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

27 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed
28 in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall

1 designate two or more officers or board members, each of whom must meet the requirements for an individual
2 applicant listed in subsection (3)(a).

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

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

5 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual
6 applicant listed in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the
7 applicant shall designate two or more officers or board members, each of whom must meet the requirements
8 for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet
9 the requirements of subsection (3)(a).

10 (ii) the corporation is authorized to do business in Montana;

11 (d) if the applicant is a general partnership, each partner must meet the requirements of subsection
12 (3)(a);

13 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all
14 limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the
15 requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all
16 limited partners must meet the requirements of subsection (3)(a).

17 (f) if the applicant is a limited liability company, all managing members and those members whose
18 ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (3)(a). If
19 no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of
20 subsection (3)(a).

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

24 (a) if the applicant is an individual:

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

27 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-
28 106;

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

3 (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
4 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
5 with all applicable laws of the state and local governments;

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

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

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

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

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

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

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

18 (i) each owner of 10% or more of the outstanding stock meets the requirements for an individual
19 applicant listed in subsection (4)(a). If no single owner owns more than 10% of the outstanding stock, the
20 applicant must designate two or more officers or board members, each of whom must meet the requirements
21 for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet
22 the requirements of subsection (4)(a).

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

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

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

28 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all

1 limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the
2 requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all
3 limited partners must meet the requirements of subsection (4)(a).

4 (f) if the applicant is a limited liability company, all managing members and those members whose
5 ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (4)(a). If
6 no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of
7 subsection (4)(a).

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

10 (6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to
11 16-4-302.

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

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

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

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

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

18 or

19 (b) has been convicted of a felony offense within 5 years of the date of application or is on probation
20 or parole or under deferred prosecution for committing a felony offense.

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

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

28

1 NEW SECTION. **Section 2.** {standard} **Effective date.** [This act] is effective on passage and
2 approval.

3

4

- END -

DRAFT