



Licensed Beverage & Hospitality

“Every man owes a part of his time and money to the business or industry in which he is engaged. No man has a moral right to withhold his support from an organization that is striving to improve conditions within his sphere.”

Theodore Roosevelt

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Economic Affairs Interim Committee

August 16, 2022

Re: Rule review of MAR Notice No. 42-1052 (DOR)

Re: Pages 1259 and 1260

Hello Economic Affairs Committee Member,

The Montana Tavern Association would like to express concern with rule change 42.12.149 (3). Here is the rule change that concerns us:

(3) The premises may include more than one building for manufacturing purposes only if the ~~property on which the buildings are located is contiguous and the licensee has~~ possessory interest in the property on which the buildings are located. To seek approval, the licensee shall submit a form provided by the department and include verification that the Alcohol and Tobacco Tax and Trade Bureau approved the licensee's registration to operate any additional building under the manufacturer's existing federal permit or notice. All buildings on the premises are subject to the suitability requirements in (2).

There was no change in law, that would cause this rule to change. Here is the departments justification for this change:

While not connected to any legislation, the department also proposes a minor amendment to (3) which is necessary for manufacturing premises conformity with Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations for continuity of plant premises located at 27 CFR 19.53, to which the department gives deference on the matter. This amendment will reflect the ability of a manufacturer to pursue more than one building for manufacturing in accordance with TTB regulations and this rule.

The Montana Tavern Association believes that this proposed change **exceeds the rulemaking authority granted to the Department of Revenue**. We believe that this issue is **best resolved through the legislative process**, which is only three and a half months away.

The Association is not opposed manufacturers utilizing off site storage for products that are aging, for additional manufacturing capacity and for other production needs. In fact, retail on-premises licensees were also recently granted the privilege of noncontiguous alcohol storage; however, on-premises licensees went to the legislature to ask for that privilege.

This change, as proposed, will create more discord and consumer confusion. There needs to be more thought put into how this change is implemented.

This change will make it more difficult for the Department to do their job. Manufacturers can, with limited exceptions, only serve product they manufactured in their sample room. Right now the manufacturing and the sample sales are occurring under the same roof. Under this proposal, manufacturers may be moving product into their sample room from

an off-site manufacturing facility, this will make the Department's job of oversight more difficult. If the primary manufacturing and the sample room are required to continue under one roof, that will help diminish this issue.

The legislature has looked at and discussed manufacturers' privileges many times in recent history and has never supported legislation that separated manufacturers' sampling (on-premises retailing) activities from their primary manufacturing activities.

Sample rooms for manufacturers were presented to the public and to the Legislature as opportunities for the public to 1) see the manufacturing. 2) smell and experience the manufacturing process. 3) provide educational tours of the manufacturing facility and allow the public to sample some of the product after the tour. 4) Meet and interact with the individuals that make the craft products. This proposed rule completely changes this. This rule would potentially allow a manufacturer to site their primary manufacturing facility (Brewery/distillery/winery) miles away from the space they would use as a sample room. The sample room could just have a de minimis amount of manufacturing activity, such as in the case of a distillery, age one barrel of whiskey in the sample room or have a still that is very small in size (and really just for display purposes), while all other manufacturing activity occurs miles away, simply to meet the standard this rule change proposes. This is not how the Legislature envisioned the sample room and is well outside of legislative intent.

Please consider placing this rule on hold so that the legislature can consider and review the impacts of this proposed change. If you could segregate this one rule change from the others, and keep the other rule changes moving forward, that would be our preference.

Respectfully,

John Iverson

Government Affairs, Montana Tavern Association