



GOVERNOR GREG GIANFORTE
DIRECTOR BRENDAN BEATTY

MEMORANDUM - SUPPLEMENTAL

TO: Economic Affairs Interim Committee

FROM: Brendan Beatty, Director

DATE: September 12, 2022

SUBJECT: 2023 Legislative Proposals for the Alcoholic Beverage Control Division
(non-Red Tape Initiative related)

This document is the Department of Revenue (Department) Alcoholic Beverage Control Division's supplemental list of non-Red Tape Initiative-related legislative proposals that have been approved through the Executive Planning Process/Office of Budget and Program Planning (OBPP) for introduction to the 2023 Legislature. As with the initial list submitted to the committee dated September 1, 2022, the Department requests the committee review and move its approval of these additional proposals for pre-introduction.

Please feel free to let me know if I can clarify anything or provide any additional information.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
ABCD	03-066	Prevent prospecting of licenses-license use requirements	None	16-3-310, 16-4-105, 16-4-201, 16-4-417, 16-4-420

Generally, this bill would curtail the prospecting of all beverage licenses and ensure the license is operated in a fashion which materially promotes the public's engagement with that licensed activity.

Issue:

Among the public policy concepts/goals in the Code, are that (1) the issuance of a liquor license is a privilege to the license holder; and (2) that the issuance (or transfer) of a license will materially promote the public's ability to engage in the licensed activity (i.e. the purchase and consumption of alcoholic beverages). The first public policy goal is met when a license is issued to an applicant that is likely to operate the establishment in compliance with all applicable laws of the state and local governments. The second goal is met when the licensee is operating a "going business" - statutorily provided in 16-3-310, MCA - and is using the license for the benefit of the public.

The Department is seeing a troubling increase in the speculative purchasing of alcoholic beverages licenses which is counter to the above-stated goals of the Code. Two examples of these license transactions involve (1) where a purchaser buys a license, has it on nonuse, and then sells the license without ever operating it; (2) or a purchaser buys a license before they are prepared to operate them. This unfairly ties up a quota license preventing any prospective licensees from entering into the marketplace and denies the public benefit because the license is not operational in a "going establishment."

Further, some license types have restrictions on their sale without having owned/operated it for a period of time, but not all licenses. Some scenarios require some licenses to be operated within a certain timeframe, but is not uniform. The department believes it to be in the spirit of the Code to place minimum operational/use requirements and timeframes for all retail license types.

Proposal:

This proposal seeks to: (1) establish statutory minimum operations requirements before a license could be transferred to a new owner; and (2) require a license to be in operation within a certain amount of time. These requirements should except instances involving the death of an owner or circumstances which are outside of licensee's control.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
ABCD	03-021	State sponsored industry trade shows	None	New section

This bill would permit the Department to sponsor alcoholic beverage industry trade shows for itself and other state agencies.

Issue:

The Department observes that state agencies are involved in industry trade shows related to alcohol. The Department of Agriculture has an annual beverage show and the Department of Commerce has an annual Made in Montana show where Montana alcohol manufacturers are featured. As an extension, the Department sees potential in sponsoring a trade show to bring together Montana manufacturers to sample their products to agency liquor store owners and retail licensees. Current laws regarding how these events must be conducted are overly burdensome and the Department believes there could be a simpler means of facilitating agency trade shows.

Proposal:

This proposal seeks to allow the Department to sponsor an industry trade shows and partner with other state agencies to allow manufacturers of alcoholic beverages to showcase and sample their products to trade show attendees. It further seeks to allow the manufacturers to bring their products directly to the trade show without having to go through other distribution channels.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
ABCD	03-023	Bottle Club Exceptions for Marketplaces	None	16-6-306

Generally, this bill would create an exception to allow certain businesses a lawful route to provide minimal amounts of beer or wine for free to bona fide customers.

Issue:

Section 16-6-306, MCA, prohibits the operation of bottle clubs (premises not licensed for the sale of alcohol where alcoholic beverages are kept for consumption by the public or for the purpose of providing a place to consume alcoholic beverages by the public for a fee or consideration) and provides an administrative penalty for violating this statute. Bottle club violations may also carry a criminal penalty. By offering a marketplace exception, certain businesses would be offered a lawful route to provide minimal amounts of beer or wine for free to bona fide customers.

Proposal:

Create an exception to 16-6-306, MCA, to allow for marketplaces to provide limited amounts of beer and/or wine for free to bona fide customers and to provide a definition of marketplace.