



GOVERNOR GREG GIANFORTE
DIRECTOR BRENDAN BEATTY

MEMORANDUM

TO: Economic Affairs Interim Committee

FROM: Brendan Beatty, Director

DATE: September 1, 2022

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

This document contains the Department of Revenue's (Department) proposed Red Tape Relief Initiative (Red Tape) related legislation for the Alcoholic Beverage Control Division which has been approved through the Executive Planning Process/Office of Budget and Program Planning (OBPP) for introduction to the 2023 Legislature. These 30 proposals - some of which can be combined into the same bill (*noted) - have been identified by OBPP and the Department as eliminating or reducing Red Tape as set forth in Governor Gianforte's Executive Order 2021-01 (EO). The Department requests the committee's review and approval of these proposals for pre-introduction.

While the Red Tape EO was specific to regulations, the Department's Red Tape Project Team's review of its regulations led to the identification of several statutes that meet the criteria of the EO. Working with Lt. Governor Juras, the Department now proposes legislative changes to remove or lessen statutory Red Tape.

The legislative proposals listed below include one or more of the following general criteria to guide the committee with its review: (1) Red Tape cleanup only; (2) changes to the statute which are more than cleanup, but address Red Tape only; and (3) changes that address Red Tape and present more substantive changes to statute. The intent with these proposals is to adhere to the EO and the Lt. Governor's direction. As such, this memorandum provides an outline of each Red Tape legislative proposal and an explanation of the Red Tape identified.

We have, in good faith, attempted to avoid any substantive changes to the laws with these Red Tape proposals which go beyond the scope of the Governor's EO. However, as is the case with any legislation, there may be instances or fact patterns which lead to unanticipated results. To the extent possible, these Red Tape legislative proposals attempt to avoid that result.

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

(3) Changes that address Red Tape and present more substantiative changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|--|---------------|-------------------|
| ABCD | 03-014-RT | Revise Premises Suitability for Airport Licenses | None | 16-3-311 |

Type of Red Tape from EO 1-2021:
Unnecessary and excessive requirements

Red Tape Identified:

Current law says that airport licenses meet the same suitability that all other licenses must meet, including being separated by floor to ceiling walls between the licensee and any other business even businesses they operate. This is not feasible with TSA and airport guidelines.

Red Tape Proposal: The department would like to propose licensing the entire airport as the licensed premises for the airport licenses as long as they can maintain control of the alcohol in any area they wish to serve or store it.

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|--|---------------|--------------------|
| ABCD | 03-024-RT | Clarify Alcoholic Beverage License Applicant Vetting | None | 16-4-107, 16-4-401 |

Type of Red Tape from EO 1-2021:

Outdated statute.

Red Tape Identified:

Owners of certain entity types that hold liquor licenses face uncertainty about which owners are required to be vetted.

Red Tape Proposal:

To update 16-4-401, MCA, to designate which individuals need to get vetted in specific entities such as trusts, co-ops, nonprofit corporations and publicly traded corporations.

Currently, 16-4-401, MCA, does not mention who must be vetted for licensing trusts, co-ops, and nonprofit corporations in order for the license to be owned by such an entity. Additionally, publicly-traded corporations are constantly changing ownership, and the current law requires any ownership that is greater than 15% to be vetted. This could change regularly.

This proposal would also clean up the language for readability.

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|---|-------------------------------------|---|
| ABCD | 03-028-RT | Clarify alcoholic beverage tax requirements | \$2,200 revenue loss to GF per year | Amend 16-1-406, 16-1-411, 16-1-424, 16-2-301 Repeal 16-1-409 |

Type of Red Tape from EO 1-2021:

Excessive and unnecessary requirements, especially burdensome on small businesses, and disproportionately impacts small businesses.

Red Tape Identified:

This is a general alcoholic beverage control cleanup request. This bill proposes to fix a number of excessive, unnecessary, and confusing requirements, as well as making language consistent with other parts of Montana law. It seeks a requirement for electronic filings, and removes an unnecessary penny tax, and changes a criminal penalty into a civil, administrative penalty instead.

Red Tape Proposal:

As manufacturers have gained the privilege to sell directly to consumers and retail licensees, the alcoholic beverage tax statutes have not been consistently updated to clarify that these manufacturers are liable for tax on these alcoholic beverages. Further, the process to collect alcoholic beverage taxes is not consistent with the collection of other state taxes, such as not including warrant for distraint or estimation language. These provisions should be updated to match the collection procedures followed by the department on other state taxes.

Some of the alcoholic beverage tax reporting statutes include a misdemeanor criminal penalty for failing to file a return, which is a harsh penalty that is better dealt with the imposition of penalty and interest.

Distributors pay an additional penny tax on wine sold to agency liquor stores, which is administratively burdensome for everyone.

(1) Red Tape cleanup only

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|---|---------------|--|
| ABCD | 03-030-RT | Remove competitive bid requirement of an Irrevocable Letter of Credit | None | 16-4-105, 16-4-201, 16-4-420, 16-4-430 |

Type of Red Tape from EO 1-2021:

Outdated, excessive, and unnecessary requirements.

Red Tape Identified:

Montana's competitive bidding process for an alcoholic beverage license requires a bidder to submit an Irrevocable Letter of Credit (ILOC) from a financial institution. These ILOCs are rarely, if ever, used to finance a bid, and add unnecessary and excessive hurdles for a prospective bidder.

Red Tape Proposal:

This proposal seeks to amend statutes for the alcoholic beverage license competitive bidding process by removing the requirement to submit an ILOC; clarifying requirements to operate the license; and removing the requirement that the Department can only offer one license per year by type if the license became available due to the splitting of former combined quota areas.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|---|--|---|
| ABCD | 03-031-RT | Eliminate Beer Connoisseur License (BCL) and create a direct shipment endorsement | \$50 renewal fee x 150 licenses - \$25 BCL renewal x 3 | Amend 16-1-406, 16-3-101, 16-3-212, 16-3-214, 16-3-230, 16-4-1101, 16-4-1102, 16-4-1103, 16-6-301 Repeal 16-4-901, 16-4-902, 16-4-903, 16-4-906, 16-4-910. |

Type of Red Tape from EO 1-2021:

Excessive regulations

Red Tape Identified:

Montana law requires that for an individual to receive direct shipments of beer from a brewery, the individual must apply for a connoisseur's license, send shipping labels to the brewery, and pay tax on the beer that was received. This is a burdensome process placed on the individual, so much so that there are only 3 individuals hold a beer connoisseur license in the state. This bill would shift the licensing and tax requirements to the responsibility of the manufacturer and mirror the process that is currently in place for the direct shipment of wine by wineries to individuals in the state.

Red Tape Proposal: To repeal statutes that require individuals to obtain a beer connoisseur's license from the department and to create a direct shipment endorsement for brewers to apply for allowing them to sell and deliver beer to individuals in the state.

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|-----------------------|---------------|--|
| ABCD | 03-032-RT | Remove wine amendment | Minimal | amend 16-4-105, 16-4-109, 16-4-110, 16-4-111, 16-4-305, 16-4-306, 16-4-420, 16-4-501 |

Type of Red Tape from EO 1-2021:

Excessive and unnecessary regulations, especially burdensome on small businesses, and disproportionately impacts small businesses.

Red Tape Identified:

For an on-premises beer licensee to get the wine amendment, it requires a licensee to complete additional paperwork. This process could be streamlined by replacing the on-premises beer license with a wine amendment with a beer and wine license. This new beer and wine license would have one application.

Red Tape Proposal:

This proposal seeks to amend statute by removing the wine amendment from the on-premises consumption beer license, making the license a beer and wine license.

(3) Changes that address Red Tape and present more substantiative changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|------------------------------|---------------|--------------------|
| ABCD | 03-033-RT | Revise catering requirements | None | 16-4-111, 16-4-204 |

Type of Red Tape from EO 1-2021:

Especially burdensome on small businesses (due to unfair acts by bad actors)

Red Tape Identified:

To get a catering endorsement, there is a requirement that the business be primarily engaged in food service. The catering endorsement is typically on-premises beer license holders, and if their customers want wine at an event that the licensee is catering, the licensee is required to get a wine amendment. This has limited the businesses that can cater alcohol and is overly burdensome.

Abuse of the interplay of concession agreements and catering endorsements to evade the prohibition on catering an event that a licensee is a sponsor of; alcoholic beverage license holders sell alcohol at more locations than the licensed premises.

Red Tape Proposal:

Alcoholic beverage licensees with a catering endorsement can cater events within 100 miles of their premises. However, the licensee is prohibited from catering an event to which they are also the sponsor. A concession agreement is an extension of a license where a licensee enters into an agreement to serve alcoholic beverages in the concessionaire's area.

This proposal seeks to prevent concessionaires of a license from sponsoring events catered by the alcoholic beverage licensee that they concession with. To prevent the abuse described above and protect alcoholic beverage small businesses, the prohibition of a licensee catering an event in which they are a sponsor should extend to the licensee's concessionaire as well.

This stresses integrity of the catering privilege and may prevent the concessionaire from organizing events to be able to sell alcoholic beverages in more locations than the licensed premises.

This proposal also seeks to amend statute by removing the food requirement for obtaining a catering endorsement.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|---|---------------|---|
| ABCD | 03-034-RT | Create a Beer Wholesaler and Table Wine Distributor License | None | Amend 16-1-106, 16-1-406, 16-1-406, 16-1-411, 16-2-301, 16-3-101, 16-3-104, 16-3-212, 16-3-214, 16-3-316, 16-3-241, 16-3-242, 16-3-243, 16-3-244, 16-3-301, 16-3-402, 16-3-406, 16-3-411, 16-4-106, 16-4-107, 16-4-314, 16-4-313, 16-4-401, 16-4-406, 16-4-407, 16-4-501, 16-4-906 Repeal 16-3-217, 16-3-218, 16-3-219, 16-3-220, 16-3-221, 16-3-222, 16-3-223, 16-3-224, 16-3-225, 16-3-226, 16-3-230, 16-3-231, 16-3-232, 16-3-233, 16-3-234, 16-3-401, 16-3-403, 16-3-415, 16-3-416, 16-3-417, 16-3-418, 16-3-419, 16-3-421, 16-4-103, 16-4-108 |

Type of Red Tape from EO 1-2021:

Excessive requirements.

Red Tape Identified:

Several statutes exist pertaining to the distribution of beer and the distribution of table wine, respectively. However, the vast majority of the entities that distribute these products distribute both, not just one. Many efficiencies could be achieved by combining the beer wholesaler license and table wine distributor license since the respective statutes are largely repetitive.

Red Tape Proposal:

This proposal seeks to amend statutes to create a single wholesale license that allows the distribution of beer and table wine.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|------------------------------------|---------------|---|
| ABCD | 03-035-RT | Revise Foreign Winery Registration | None | Amend 16-1-411, 16-3-301, 16-4-107, 16-4-501, 16-4-1101 |

Type of Red Tape from EO 1-2021:

Unnecessary and excessive requirements.

Red Tape Identified:

Currently, a foreign winery or wine importer (located outside of Montana) may pursue registration or licensure to sell wine in Montana. The options cause confusion and wineries and wine importers often submit incorrect applications to the department.

Red Tape Proposal: This proposal seeks removal of the foreign winery registration option and require all wineries/wine importers operating in the state to obtain a license.

(1) Red Tape cleanup only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|---------------------------------------|----------------------|--------------------------|
| ABCD | 03-036-RT | Restaurant Beer/Wine License Clean Up | None | 16-4-105(6) |

Type of Red Tape from EO 1-2021:

Outdated exception.

Red Tape Identified:

House Bill 226 (2021) removed the prohibition against restaurant beer and wine holders from selling alcoholic beverages for off-premises consumption. However, 16-4-105(6), MCA, was not amended for consistency with HB 226.

Red Tape Proposal: This proposal seeks to amend 16-4-105(6), MCA, to remove an exception that is no longer applicable to restaurant beer and wine license holders.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|---------------------------------|----------------------|------------------------------|
| ABCD | 03-042-RT | Revise agency liquor store laws | None | 16-1-106, 16-2-101, 16-2-203 |

Type of Red Tape from EO 1-2021:

Excessive and outdated requirements (as unclear)

Red Tape Identified:

Current statutes are unclear whether agency liquor store commissions are only paid on liquor. There is also historic lack of specificity for what happens to inventory when an agency store goes out of business. Further clarification of what products can be sold and to whom will reduce burdens on agency liquor stores.

Red Tape Proposal:

This proposal seeks to accomplish these changes through clarification of statutes listed above related to agency stores.

(3) Changes that address Red Tape and present more substantiative changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|---|----------------------|--------------------------|
| ABCD | 03-043-RT | Revise agency store quantity and location | None | 16-2-109 |

Type of Red Tape from EO 1-2021:

Excessive requirements (as contradictory)

Red Tape Identified:

Section 16-2-109(1), MCA, provides the number of agency liquor stores a community may have is based on its population. Section 16-2-109(2), MCA, restricts the location of an agency liquor store established after April 25, 1995 within 35 miles of another community where an agency liquor store is presently located. Section 16-2-109(1) and (2), MCA, contradict in such a way that regardless of its population, a community can never be allowed another agency liquor store because of the mileage requirement.

Red Tape Proposal:

This proposal seeks to amend 16-2-109, MCA, to clarify how many agency liquor stores may be located within a community whether based on population or the proximity of the proposed agency liquor store to other existing agency liquor stores.

(1) Red Tape cleanup only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|--|----------------------|---|
| ABCD | 03-044-RT | Revise alcoholic beverage distributor agreement requirements | None | Amend 16-3-226, 16-3-416 Repeal 16-3-420 |

Type of Red Tape from EO 1-2021:

Excessive and unnecessary regulation

Red Tape Identified:

Sections 16-3-226 and 16-3-416(3), MCA, requires that the department be provided copies of all beer wholesaler and table wine distributor agreements, respectively. However, the department has historically not received many of these agreements. Because the department serves as a repository, this appears to be an excessive and unnecessary requirement. The wholesalers and distributors should maintain those records and provide them to the department upon request only.

Red Tape Proposal:

This proposal seeks to eliminate the need for wholesalers and distributors to file their distributor agreements with the department through amending and repealing the statutes above.

(3) Changes that address Red Tape and present more substantiative changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|----------------------------|---------------|-------------------|
| ABCD | 03-046-RT | Revise Title 16, Chapter 1 | None | 16-1-101, et seq. |

Type of Red Tape from EO 1-2021:

Outdated and unnecessary requirements.

Red Tape Identified:

Much of Title 16, Chapter 1, MCA, needs a general update to language to match current practices (such as removing the Department from approving medicine formulas and the sale/purchase of table wine by the Department) and to eliminate unnecessary statutes. Updates to current/accurate terminology are proposed (liquor to alcoholic beverages for example). This will eliminate confusion for licensees and taxpayers as well as facilitate better administration of Montana’s alcoholic beverage laws.

Red Tape Proposal:

This proposal seeks to generally update Title 16, Chapter 1, MCA, to match current practices in the alcoholic beverage industry and update terminology to be consistent. It does not include any policy changes.

(*combine with similar Title 16 proposals for general updates)

(1) Red Tape cleanup only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|-----------------------------|---------------|--------------------|
| ABCD | 03-047-RT | Title 16 Chapter 2 Clean up | None | 16-2-103, 16-2-104 |

Type of Red Tape from EO 1-2021:

Unnecessary and especially burdensome on small businesses

Red Tape Identified:

There is current requirement for agency liquor stores to keep duplicate invoices of table wine receipts. This is not necessary and is burdensome. Hours of operation for agency liquor stores are in statute but they are not clear.

Red Tape Proposal:

This proposal seeks to remove duplicate invoice requirement and clarify agency store hours (for example, to allow for a normal, operating day on Saturday).

(*combine with similar Title 16 proposals for general updates)

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|-----------------------------------|---------------|--|
| ABCD | 03-048-RT | Title 16, Chapter 3 modernization | None | 16-3-213, 16-3-233, 16-3-241, 16-3-302, 16-3-309, 16-3-316, 16-3-411 |

Type of Red Tape from EO 1-2021:

Outdated and unnecessary requirements.

Red Tape Identified:

Title 16, Chapter 3, MCA, needs modernization based on current business models and practice. For instance, Chapter 3 only covers brewers who produce more than 100 barrels per year in the definition of “small brewery;” golf courses are not allowed to store alcohol at “the turn” (going from the front nine to back, or vice-versa), where patrons of golf courses are accustomed to having an alcoholic beverage option available; local governments can opt to ban all alcoholic beverages or none, but there is no middle ground; and alcohol may only be donated by retailers to nonprofits.

Red Tape Proposal:

This proposal seeks a number of changes to modernize Title 16, Chapter 3, including a change to legalize certain activities that are currently illegal such as alcohol storage at the turn at golf courses. Include small brewers that produce less than 100 barrels in the definition of “small brewery.” Equalize the treatment of all licensees including RBWs, manufacturers, and wholesalers by making each able to donate alcohol to nonprofits. Allow local municipalities to decide what products they would like to allow/ban instead of an all-or-nothing approach.

(*combine with similar Title 16 proposals for general updates)

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|----------------------------------|---------------|--------------------|
| ABCD | 03-049-RT | Clarify fingerprint requirements | None | 16-1-106, 16-4-414 |

Type of Red Tape from EO 1-2021:

Outdated requirements (as unclear)

Red Tape Identified:

Section 16-4-414, MCA, is unclear and inconsistent with 16-4-401, MCA. Clarifying who is required to be fingerprinted and who is not will make current this law and generally reduce burdens on licensees.

Red Tape Proposal:

The Department seeks to amend 16-4-414, MCA, to clarify that persons required to be vetted under 16-4-401, MCA, must submit fingerprints to the Department. This clarification is necessary because 16-4-401, MCA, requires the Department to determine whether vetted individuals have been convicted of a felony. The Department further seeks to clarify fingerprinting of managers by defining location manager to be a person providing general oversight of the alcoholic beverage operations who ensures compliance with alcoholic beverage laws and regulations. To further clarify which manager must submit fingerprints, this proposal would codify a current rule requirement that each licensee designate a location manager. This proposal will also clarify which individuals are required to submit fingerprints for an applicant who is a publicly-traded company and for business entities employed as a location manager.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|------------------------------|----------------------|--------------------------|
| ABCD | 03-050-RT | Clarify renewal requirements | None | 16-4-407 |

Type of Red Tape from EO 1-2021:

Outdated requirements.

Red Tape Identified:

Section 16-4-407, MCA, is cumbersome and contains outdated requirements. It allows licensee a full year to pay their renewal fees before the licenses are subject to suspension or revocation. Unfortunately, the statute is silent as to the application due date for the renewal.

Red Tape Proposal:

To update 16-4-407, MCA, to clean up the language for readability, clarify the procedure for failing to renew, and clarify when the renewal application and fees are due.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|--|---------------|-----------------------|
| ABCD | 03-051-RT | Distillery and winery storage warehouses | Minimal | New Title 16 statutes |

Type of Red Tape from EO 1-2021:

Outdated requirements, disproportionately impacts small businesses

Red Tape Identified:

Unlike licensed brewers in Montana, Title 16 does not permit distilleries and wineries to apply for and operate a warehouse specifically for storage purposes. Although the department has allowed distillers to apply for and operate a distilled spirit storage warehouse through administrative rule, the department would like to seek legislation to codify this privilege for distillers and create the same privilege for vintners. This will create parity amongst all alcoholic beverage manufacturing types and more closely mirror federal regulations.

Red Tape Proposal:

This proposal seeks to create a statute to allow for distillery and winery storage warehouses.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|-------------------------------|----------------------|--------------------------|
| ABCD | 03-052-RT | Remove unused tribal licenses | None | 16-4-110, 16-4-201 |

Type of Red Tape from EO 1-2021:

Unnecessary statutes

Red Tape Identified:

Montana law provides an option for the department to issue a tribal alcoholic beverage (beer or all-beverage) license for those who were operating under a tribal license prior to January 1, 1985. The department has not issued any of these licenses.

Red Tape Proposal:

This proposal seeks to remove the option for the department to issue tribal alcoholic beverages licenses for those who were operating under a tribal license prior to January 1, 1985.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|--|----------------------|--------------------------|
| ABCD | 03-053-RT | Premises Inspections for All Licensees | None | 16-6-103 |

Type of Red Tape from EO 1-2021:

Outdated requirements.

Red Tape Identified:

Section 16-6-103, MCA, currently allows the Department of Justice or a peace officer to examine the premises of retail licensees and to inspect cars or aircraft of common carriers licensed under the Montana Alcoholic Beverage Code. However, the same is not permitted for the rest of the Title 16 licensees. These amendments will bring parity in inspections to all alcoholic beverage licensees and allow the inspection of all licensee premises.

Red Tape Proposal:

This proposal seeks to update 16-6-103, MCA, to allow the Department of Justice or a peace officer to examine the premises of all Title 16 licensees (wholesalers, distillers, brewers, wineries, retailers, etc.) instead of just being limited to examining the premises of only retail licensees. Also to allow the Department of Revenue the ability to examine the premises of its licensees in addition to the Department of Justice or peace officers.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|---------------------------------|----------------------|--------------------------|
| ABCD | 03-056-RT | Transfer of alcoholic beverages | None | 16-4-404 |

Type of Red Tape from EO 1-2021:

Outdated requirements.

Red Tape Identified:

It is common for an alcoholic beverage licensee to sell their license to another person or entity. In these instances, it is also common business practice for any alcoholic beverages inventory remaining to be transferred to the new owner at the time of the sale. This is a practice that the department allows for, but Montana law does not address. Codifying this permissive activity will improve transparency for buyers and sellers of alcoholic beverage licenses, strengthen the department's position that it has already implemented, and ease current inventory shuffling burdens for the parties to the transaction and for wholesalers, distributors, and/or agency liquor stores.

Red Tape Proposal:

This proposal seeks to create a statute to allow for the transfer of alcoholic beverages when a current alcoholic beverage licensee sells their license to another person/entity.

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|----------------------------|---------------|--|
| ABCD | 03-057-RT | Update temporary authority | None | 16-4-404, 16-4-416, 16-4-801, 23-5-119 |

Type of Red Tape from EO 1-2021:

Outdated requirements

Red Tape Identified:

Current law allows for a qualified purchaser of a licensed business to operate it and the license under 'temporary operating authority (TA)' - pending final license transfer approval - when there has not been a change in location. The department contends that other situations in addition to those in statute may warrant the issuance TA, but the department also requests statutory controls for department and applicant responsiveness with the goal that qualified purchaser applications can be expedited. Additional TA scenarios include where an applicant is the purchaser of a license currently operated at a premises and the premises has not been altered from the last approved floor plan, or where the applicant is a current licensee in good standing who is applying for another license.

Red Tape Proposal:

This proposal seeks to clarify and provide more opportunities for TA to be granted when appropriate.

(1) Red Tape cleanup only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|--------------------------|---|--------------------------|
| ABCD | 03-058-RT | Academic brewers license | Minimal. 5 licenses-\$500 for license, \$200 yearly renewal | 16-4-314 |

Type of Red Tape from EO 1-2021:

Outdated and unnecessary restrictions

Red Tape Identified:

Section 16-4-314, MCA, limits the academic brewers license to two colleges/universities: Flathead Valley Community College and Montana State University - Billings. Since the passage of this statute during the 2017 legislative session, several other colleges/universities have approached the department wanting an academic brewers license as they are interested in offering a beer-brewing class or curriculum or conduct research. Opening the availability of this license type to other Montana universities or other qualified postsecondary institution in Montana would provide more opportunities for such programs.

Red Tape Proposal:

This proposal seeks to amend statute to allow any Montana university or other qualified postsecondary institution in Montana the ability to apply for an academic brewers license.

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|------------------------------|---------------|---|
| ABCD | 03-059-RT | Title 16, Chapter 4 Clean up | None | 16-4-101, 16-4-102, 16-4-103, 16-4-104, 16-4-105, 16-4-107, 16-4-108, 16-4-109, 16-4-111, 16-4-115, 16-4-203, 16-4-204, 16-4-207, 16-4-208, 16-4-210, 16-4-213, 16-4-301, 16-4-305, 16-4-306, 16-4-313, 16-4-314, 16-4-315, 16-4-404, 16-4-405, 16-4-412, 16-4-415, 16-4-416, 16-4-418, 16-4-420, 16-4-501, 16-4-801, 16-4-901, 16-4-1003, 16-4-1005, 16-4-1102 |

Type of Red Tape from EO 1-2021:

Excessive, unnecessary, and disproportionately impacts small businesses

Red Tape Identified:

Title 16, chapter 4, Montana Code Annotated, contains outdated, unnecessary, and burdensome statutory language.

Red Tape Proposal:

This proposal seeks to update some language to match current practice (such as not requiring brewery storage depots to contain refrigeration and a cooling apparatus), to update language to capture modern practices and to eliminate unneeded statutes. Update terms to be more accurate (liquor to alcoholic beverages and removing the redundant reference to “of Revenue” when the Department is referenced in the Code).

(*combine with similar Title 16 proposals for general updates)

(3) Changes that address Red Tape and present more substantiative changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|-----------------------------|---------------|--|
| ABCD | 03-060-RT | Title 16, Chapter 6 cleanup | None | 16-6 generally, 16-6-101, 16-6-104, 16-6-301, 16-6-303, 16-6-304, 16-6-306 |

Type of Red Tape from EO 1-2021:

Outdated and unnecessary provisions in statute.

Red Tape Identified:

Title 16, chapter 6, Montana Code Annotated, contains outdated and unnecessary statutory language. For example, updates are required (such as an unlicensed individual not being able to make liquor for personal consumption) and to update language to capture modern practices (constables vs law enforcement officers). Update terms to be more accurate (liquor to alcoholic beverages).

Red Tape Proposal:

This proposal seeks to clarify statute (such as an unlicensed individual not being able to make liquor for personal consumption) and to update statutory language to capture modern practices (constables vs law enforcement officers). Update terms to be more accurate (liquor to alcoholic beverages).

(*combine with similar Title 16 proposals for general updates)

(1) Red Tape cleanup only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|---|---------------|-------------------|
| ABCD | 03-061-RT | Shorten five year premises moratorium for denied applications | None | 16-4-413 |

Type of Red Tape from EO 1-2021:

Unnecessary requirements.

Red Tape Identified:

There is a statutory five-year moratorium on a premises if a license application for a new license or for the transfer of an existing license has been denied for any reason. This affects not only the original applicant, but anyone else wishing to potentially license that premises for the next five years. This is an unnecessary requirement if there a person or entity that can get the premises into suitability and be operational sooner.

Red Tape Proposal:

This proposal seeks to to amend statute to shorten the premises moratorium that exists when an application is denied from five years to two years.

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|-----------------------------|---------------|---|
| ABCD | 03-062-RT | Title 16, Chapter 3 cleanup | None | Amend 16-3-101, 16-3-103, 16-3-104, 16-3-106, 16-3-217, 16-3-218, 16-3-230, 16-3-233, 16-3-243, 16-3-301, 16-3-306, 16-3-308, 16-3-316, 16-3-401, 16-3-411 Repeal 16-3-321, 16-3-322, 16-3-323, 16-3-324 |

Type of Red Tape from EO 1-2021:

Outdated and unnecessary requirements, especially burdensome on small businesses.

Red Tape Identified:

Title 16, chapter 3 contains outdated, unnecessary, and burdensome statutory language.

Red Tape Proposal:

This proposal is a general cleanup of Title 16, chapter 3. This includes modernizing terminology, like the use of malt liquor and telegram, and removing redundant language. This proposal will simplify the statute regarding conveyance of alcoholic beverages, simplify and clarify the statute regarding the 7-day credit limitation, remove the limitation that brewers and beer importers must sell to wholesalers from a storage depot in Montana, clarify that the Code does not prohibit the manufacture of wine for personal or family use if it is not intended for sale, and clarify the number of special permits a winery may receive. This bill will clarify that licensed retailers may only purchase or acquire table wine from a liquor store agent, winery, or table wine distributor. It will further clarify that the restriction on proximity to churches and schools does not prevent the Department from approving a transfer of ownership of a grandfathered license or to allow a grandfathered licensee to apply for a new license type. The proposal will also allow non-profit organizations to receive alcoholic beverages from wholesalers, distributors, and restaurant beer and wine licensees for a raffle or auction.

(*combine with similar Title 16 proposals for general updates)

(2) Changes to the statute which are more than cleanup but address Red Tape only.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|-----------------|---------------------|------------------------------|----------------------|--------------------------|
| ABCD | 03-063-RT | Beer Advertising Regulations | None | 16-4-244 |

Type of Red Tape from EO 1-2021:

Unnecessary restrictions.

Red Tape Identified:

Section 16-4-244, MCA, states that a licensee is not allowed to advertise beer on buildings adjacent to its premises even though many licensees do not have control over the adjacent buildings.

Red Tape Proposal: To amend statute to remove the restriction that beer cannot be advertised on buildings adjacent to the licensed premises.

(3) Changes that address Red Tape and present more substantive changes to the statute.

| Division | DOR File No. | Short Title | Fiscal Impact | Statutes Impacted |
|----------|--------------|---------------------------------|---------------|-------------------|
| ABCD | 03-066-RT | Prevent prospecting of licenses | None | |

Type of Red Tape from EO 1-2021:

Especially burdensome on small businesses.

Red Tape Identified:

- OBPP has requested more info. -

The department is seeing more and more where someone buys a license, has it on nonuse after submitting a no-premises application, and then sells it without ever operating it. This prevents prospective licensees from entering into the marketplace and operating lawful businesses. Some license types have restrictions on being able to sell the license without having owned/operated it for a period of time, but not all licenses. The department would like to see minimum operations requirements on all retail license types.

Red Tape Proposal:

This proposal seeks to clarify that a license must be operated for a certain amount of time before it could be transferred to a new owner.