

**Amendment - 1st Reading-white - Requested by: Jason Small - Free Conference Committee  
on HB 539**

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

HB0539.003.005

1 HOUSE BILL NO. 539  
2 INTRODUCED BY K. ZOLNIKOV  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS;  
5 ALLOWING AN ALCOHOLIC BEVERAGES LICENSEE TO OPERATE A GUEST RANCH OR SIMILAR  
6 BUSINESS AND SERVE ALCOHOL AT THE PREMISES; REVISING DEFINITIONS; ALLOWING LICENSED  
7 RETAILERS TO PURCHASE BEER AND TABLE WINE FROM LICENSED IN-STATE RETAILERS AND  
8 PROVIDING LIMITATIONS; REVISING LAWS RELATED TO LICENSE LAPSE; AMENDING SECTIONS 16-1-  
9 106, 16-3-301, AND 16-3-302, AND 16-3-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12

13 **Section 1.** Section 16-1-106, MCA, is amended to read:

14 **"16-1-106. Definitions.** As used in this code, the following definitions apply:

15 (1) "Agency franchise agreement" means an agreement between the department and a person  
16 appointed to sell liquor and table wine as a commission merchant rather than as an employee.

17 (2) "Agency liquor store" means a store operated under an agency franchise agreement in  
18 accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises  
19 consumption.

20 (3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

21 (4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink  
22 that contains more than 0.5% of alcohol by volume.

23 (5) (a) "Beer" means:

24 (i) a malt beverage containing not more than 8.75% of alcohol by volume; or

25 (ii) an alcoholic beverage containing not more than 14% alcohol by volume:

26 (A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both,  
27 in potable brewing water, of malted cereal grain; and

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- 1 (B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived  
2 from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.
- 3 (b) The term does not include a caffeinated or stimulant-enhanced malt beverage.
- 4 (6) "Beer importer" means a person other than a brewer who imports malt beverages.
- 5 (7) "Brewer" means a person who produces malt beverages.
- 6 (8) "Caffeinated or stimulant-enhanced malt beverage" means:
- 7 (a) a beverage:
- 8 (i) that is fermented in a manner similar to beer and from which some or all of the fermented  
9 alcohol has been removed and replaced with distilled ethyl alcohol;
- 10 (ii) that contains at least 0.5% of alcohol by volume;
- 11 (iii) that is treated by processing, filtration, or another method of manufacture that is not generally  
12 recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and
- 13 (iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng,  
14 and taurine; or
- 15 (b) a beverage:
- 16 (i) that contains at least 0.5% of alcohol by volume;
- 17 (ii) that is treated by processing, filtration, or another method of manufacture that is not generally  
18 recognized as a traditional process in the production of beer as described in 27 CFR 25.55;
- 19 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract;
- 20 (iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng,  
21 and taurine;
- 22 (v) for which the producer is required to file a formula for approval with the United States alcohol  
23 and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and
- 24 (vi) that is not exempt pursuant to 27 CFR 25.55(f).
- 25 (9) "Community" means:
- 26 (a) in an incorporated city or town, the area within the incorporated city or town boundaries;
- 27 (b) in an unincorporated city or area, the area identified by the federal bureau of the census as a

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1 community for census purposes; and

2 (c) in a consolidated local government, the area of the consolidated local government not  
3 otherwise incorporated.

4 (10) "Concessionaire" means an entity that has a concession agreement with a licensed entity.

5 (11) "Curbside pickup" means the sale of alcoholic beverages that meets the requirements of 16-3-  
6 312.

7 (12) "Department" means the department of revenue, unless otherwise specified, and includes the  
8 department of justice with respect to receiving and processing, but not granting or denying, an application under  
9 a contract entered into under 16-1-302.

10 (13) "Growler" means any fillable, sealable container complying with federal law.

11 (14) (a) "Guest ranch or similar business" means a business or organization that provides guests  
12 with overnight lodging, dining, and onsite outdoor recreational activities typical of western ranching for the  
13 purposes of vacation or recreation. Recreational activities offered by a guest ranch or similar business may  
14 include but are not limited to horseback riding, wagon or sleigh rides, fishing, shooting, and working with  
15 livestock. The premises of a guest ranch or similar business must comprise at least 50 contiguous acres. The  
16 permanent building included within the premises must be ENTIRELY located outside the license quota area of an  
17 incorporated city or an incorporated town as determined under 16-4-105(1) or 16-4-201. The premises of a  
18 guest ranch or similar business may include restaurants, sporting and recreational equipment shops, event  
19 venues, arenas, and other facilities that may be used by other persons in addition to the overnight guests.

20 (b) The term does not include premises used as rehabilitation centers, group homes, clinics,  
21 nursing homes, church or other religious campgrounds, or other similar uses.

22 ~~(14)~~(15) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the  
23 juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 8.5% of  
24 alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

25 ~~(15)~~(16) "Immediate family" means a spouse, dependent children, or dependent parents.

26 ~~(16)~~(17) "Import" means to transfer beer or table wine from outside the state of Montana into the state  
27 of Montana.

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1           ~~(17)~~(18) "Liquor" means an alcoholic beverage except beer and table wine. The term includes a  
2 caffeinated or stimulant-enhanced malt beverage.

3           ~~(18)~~(19) "Malt beverage" means:

4           (a)     an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination  
5 of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with  
6 or without other malted cereals and with or without the addition of unmalted or prepared cereals, other  
7 carbohydrates, or products prepared from carbohydrates and with or without other wholesome products  
8 suitable for human food consumption; or

9           (b)     an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any  
10 kind, glucose, sugar, or molasses that has not undergone distillation.

11          ~~(19)~~(20) (a) "Original package" means the sealed container in which a manufacturer packages its  
12 product for retail sale.

13          (b)     The term includes but is not limited to:

14           (i)     bottles;

15           (ii)    cans; and

16           (iii)   kegs.

17          ~~(20)~~(21) "Package" means a container or receptacle used for holding an alcoholic beverage.

18          ~~(21)~~(22) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor licenses  
19 as fixed and determined by the department and in addition an excise and license tax as provided in this code.  
20 In the case of sacramental wine sold in agency liquor stores, the wholesale price may not exceed the sum of  
21 the department's cost to acquire the sacramental wine, the department's current freight rate to agency liquor  
22 stores, and a 20% markup.

23          ~~(22)~~(23) "Prepared serving" means a container of alcoholic beverages, filled at the time of sale and  
24 sealed with a lid, for consumption at a place other than the licensee's premises.

25          ~~(23)~~(24) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that  
26 contains 50% of alcohol by volume.

27          ~~(24)~~(25) "Public place" means a place, building, or conveyance to which the public has or may be

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1 permitted to have access and any place of public resort.

2 ~~(25)~~(26) "Retail price" means the price established by an agent for the sale of liquor to persons who do  
3 not hold liquor licenses. The retail price may not be less than the department's posted price.

4 ~~(26)~~(27) "Rules" means rules adopted by the department or the department of justice pursuant to this  
5 code.

6 ~~(27)~~(28) "Sacramental wine" means wine that contains more than 0.5% but not more than 24% of  
7 alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious  
8 purposes.

9 ~~(28)~~(29) "Special event", as it relates to an application for a beer and wine special permit, means a  
10 short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

11 ~~(29)~~(30) "State liquor warehouse" means a building owned or under control of the department for the  
12 purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

13 ~~(30)~~(31) "Storage depot" means a building or structure owned or operated by a brewer at any point in  
14 the state of Montana off and away from the premises of a brewery, which building or structure is equipped with  
15 refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as  
16 permitted by this code.

17 ~~(31)~~(32) "Subwarehouse" means a building or structure owned or operated by a licensed beer  
18 wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's or  
19 table wine distributor's warehouse or principal place of business, and used for the receiving, storage, and  
20 distribution of beer or table wine as permitted by this code.

21 ~~(32)~~(33) "Table wine" means wine that contains not more than 16% of alcohol by volume and includes  
22 cider.

23 ~~(33)~~(34) "Table wine distributor" means a person importing into or purchasing in Montana table wine or  
24 sacramental wine for sale or resale to retailers licensed in Montana.

25 ~~(34)~~(35) "Warehouse" means a building or structure located in Montana that is owned or operated by a  
26 licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table  
27 wine as permitted by this code.

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1           ~~(35)~~(36) "Wine" means an alcoholic beverage made from or containing the normal alcoholic  
2 fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except  
3 as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not  
4 more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and  
5 fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other  
6 alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as  
7 wine in accordance with federal regulations are also wine."  
8

9           **Section 2.** Section 16-3-301, MCA, is amended to read:

10           **"16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age.** (1) It  
11 is unlawful for a licensed retailer to purchase or acquire beer or wine from anyone except a brewery, winery, or  
12 wholesaler licensed under the provisions of this code except as allowed in 16-4-213(8).

13           (2) It is unlawful for a licensed retailer to transport beer or wine from one licensed premises or  
14 other facility to any other licensed premises owned by the licensee except as allowed in 16-4-213(8).

15           (3) It is unlawful for a licensed retailer to purchase or acquire liquor from anyone except an agency  
16 liquor store except as allowed in 16-4-213(8).

17           (4) It is unlawful for a licensed wholesaler to purchase beer or wine from anyone except a brewery,  
18 winery, or wholesaler licensed or registered under this code.

19           (5) It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or  
20 give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

21           (a) any person under 21 years of age; or

22           (b) any person actually, apparently, or obviously intoxicated.

23           (6) Any person under 21 years of age or any other person who knowingly misrepresents the  
24 person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with  
25 the licensee and, upon conviction, is subject to the penalty provided in 45-5-624. However, nothing in this  
26 section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in  
27 violation of any federal law.

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1 (7) All licensees shall display in a prominent place in their premises a placard, issued by the  
2 department, stating fully the consequences for violations of the provisions of this code by persons under 21  
3 years of age.

4 (8) For purposes of 45-5-623 and this title, the establishment of the following facts by a person  
5 making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of  
6 innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

7 (a) the purchaser falsely represented and supported with documentary evidence that an ordinary  
8 and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages;

9 (b) the appearance of the purchaser was such that an ordinary and prudent person would believe  
10 the purchaser to be of legal age to purchase alcoholic beverages; and

11 (c) the sale was made in good faith and in reasonable reliance upon the representation and  
12 appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages.

13 (9) A licensed retailer may purchase beer and table wine from a licensed in-state retailer and  
14 transport the purchased beer and table wine to the licensed retailer's premises. The department may penalize  
15 retailers purchasing beer and table wine from out-of-state retailers subject to this code. Purchases under this  
16 subsection are limited to a maximum of 6 gallons a day. (See compiler's comments for contingent termination of  
17 certain text.)"

18  
19 **Section 3.** Section 16-3-302, MCA, is amended to read:

20 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to  
21 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the  
22 retailer.

23 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf  
24 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under  
25 16-4-109 to sell beer and wine:

26 (a) in the building or other structural premises constituting the clubhouse or primary indoor  
27 recreational quarters of the golf course; and

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1 (b) at any place within the boundaries of the golf course, from a portable satellite vehicle or other  
2 movable satellite device that is moved from place to place, whether inside or outside of a building or other  
3 structure.

4 (3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place  
5 within the boundaries of the golf course, whether inside or outside of a building or other structure.

6 (4) (a) It is lawful for a licensee who has an all-beverages license or has a retail license issued  
7 under ~~16-4-104~~ 16-4-105 to sell and serve alcoholic beverages for which the licensee is licensed at a guest  
8 ranch or similar business as defined in 16-1-106. The guest ranch or similar business must be owned by the  
9 licensee or by a concessionaire with which the licensee has a concession agreement under 16-4-418. For a  
10 license operated at a guest ranch or similar business, alcoholic beverages may be served anytime within the  
11 outdoor portions of the licensed premises and in one permanent building AT ANY TIME DURING THE HOURS  
12 ALLOWED UNDER 16-3-304.

13 (B) AN APPLICANT OR LICENSEE DESIRING TO OPERATE A LICENSE AS DESCRIBED IN THIS SUBSECTION (4)  
14 SHALL SUBMIT TO THE DEPARTMENT A PREMISES FLOORPLAN THAT DESCRIBES THE PREMISES AS A GUEST RANCH AND  
15 DEPICTS BOTH THE INDOOR AND OUTDOOR PORTIONS OF THE PREMISES. THE FLOORPLAN MUST BE SUBMITTED TO THE  
16 DEPARTMENT AS PART OF A LICENSE APPLICATION OR AS PART OF A PREMISES ALTERATION REQUEST AS DESCRIBED IN  
17 16-3-311(2).

18 (b)(c) A license operated at a guest ranch or similar business is subject to the REQUIREMENTS THAT  
19 ARE APPLICABLE TO RETAIL LICENSES GENERALLY, INCLUDING THE premises suitability provisions of 16-3-311,  
20 except that:

21 (i) the premises may include any number of temporary, mobile, or partial structures, including but  
22 not limited to tents, teepees, yurts, picnic shelters, recreational vehicles, wagons, trailers, or any other  
23 structures that are not permanent buildings, PROVIDED THAT ALL TEMPORARY, MOBILE, OR PARTIAL STRUCTURES MAY  
24 NOT BE USED FOR ALCOHOL STORAGE PURPOSES UNLESS APPROVED BY THE DEPARTMENT, AND MAY ONLY BE USED  
25 FOR ALCOHOL SERVICE AND CONSUMPTION IF THEY REMAIN WITHIN THE LICENSEE'S APPROVED OUTDOOR PREMISES  
26 AREA;

27 (ii) the premises may include any outdoor areas in which the licensee or concessionaire has

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1 possessory interest, WHICH MAY BE DEMONSTRATED BY PROPERTY OWNERSHIP RECORDS, A LEASE AGREEMENT, A  
2 CONCESSION AGREEMENT, OR OTHER EVIDENCE OF POSSESSORY INTEREST ACCEPTABLE TO THE DEPARTMENT;

3 (iii) the premises may be separated by roadways, waterways, natural barriers, or fence lines if the  
4 premises are otherwise contiguous;

5 (iv) a perimeter barrier is not required IF THE PROPERTY LINE IS OTHERWISE MARKED; and

6 (v) the premises may be identified on the license by legal description rather than by building  
7 address.

8 (e)(D) For the purposes of this subsection (4), the term "permanent building" means a fixed,  
9 nonmobile structure with floor-to-ceiling exterior walls, a full roof, electrical wiring, and plumbing fixtures.

10 (5) (A) IT IS LAWFUL FOR A LICENSEE WHO HAS AN ALL-BEVERAGES LICENSE OR A RESORT AREA ALL-  
11 BEVERAGES LICENSE TO SELL ALCOHOLIC BEVERAGES:

12 (i) IN THE BUILDING OR OTHER STRUCTURAL PREMISES CONSTITUTING THE PRIMARY INDOOR LODGING  
13 QUARTERS OF A HOTEL OR OTHER SHORT-TERM LODGING FACILITY;

14 (ii) IF THE LICENSEE'S PREMISES INCLUDE A SWIMMING POOL, IN A PERMANENT, LICENSED ALCOHOL  
15 SERVICE STRUCTURE IN THE SWIMMING POOL AREA SEPARATE FROM THE MAIN LICENSED PREMISES;

16 (iii) IF THE LICENSEE'S PREMISES INCLUDE A SKI HILL, IN UP TO TWO PERMANENT, LICENSED ALCOHOL  
17 SERVICE STRUCTURES SEPARATE FROM THE MAIN LICENSED PREMISES WITHIN THE EXTERIOR BOUNDARIES OF THE SAME  
18 PREMISES THAT ARE OWNED, LEASED, OR OTHERWISE UNDER THE CONTROL OF AND OPERATED BY THE SAME PROPERTY  
19 OWNER, LICENSEE, AND IF APPLICABLE, CONCESSIONAIRE;

20 (iv) IF THE LICENSEE'S PREMISES INCLUDE A GOLF COURSE, THE PREMISES IN ADDITION TO THE MAIN  
21 LICENSED PREMISES MAY INCLUDE:

22 (A) THE BUILDING OR ALCOHOL SERVICE STRUCTURE CONSTITUTING THE CLUBHOUSE OR PRIMARY  
23 RECREATIONAL QUARTERS OF THE GOLF COURSE THAT IS SEPARATE FROM THE MAIN LICENSED PREMISES; AND

24 (B) THE OUTDOOR AREA WITHIN THE BOUNDARIES OF THE GOLF COURSE.

25 (B) BUILDINGS OR STRUCTURAL PREMISES ALLOWED UNDER THIS SUBSECTION (5) MAY BE SEPARATE  
26 FROM THE BUILDING COMPROMISING THE MAIN LICENSED PREMISES BUT MUST OTHERWISE MEET THE PREMISES  
27 SUITABILITY REQUIREMENTS OF 16-3-311. THE LICENSEE SHALL PAY AN APPLICATION FEE OF \$100 FOR EACH AREA

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1 ALLOWED UNDER THIS SUBSECTION (5)."

2

3 **Section 4.** SECTION 16-3-311, MCA, IS AMENDED TO READ:

4 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may  
5 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages, except as  
6 otherwise allowed in 16-3-302(5). The licensed retailer must demonstrate that it has adequate control over all  
7 alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are  
8 actually or apparently intoxicated. Except as provided in subsection (8), the premises must be separated from  
9 the rest of the building by permanent walls but may have inside access to the rest of the building at all times  
10 even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in  
11 which the alcoholic beverages are served. A licensee may lease the kitchen or another specified area to allow  
12 another business entity to operate a business within its premises without permanent floor-to-ceiling walls and  
13 without a concession agreement if the other business does not take orders for, serve, or deliver alcohol and has  
14 a separate point of sale system. If the premises are located in a portion of a building, the licensed retailer must  
15 be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic  
16 beverages after hours, either by the presence of a lockable door or other security features such as rolling gates,  
17 locking cabinets, tap locks, or key card access.

18 (b) A resort retail all-beverages licensee, or a retail all-beverages licensee, or an on-premises  
19 consumption beer and wine licensee within the boundaries of a resort area may also utilize ~~an~~ up to three  
20 alternate alcoholic beverage storage ~~facility~~ facilities as allowed in 16-4-213(8).

21 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent  
22 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the  
23 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.  
24 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved  
25 alteration due to modifications required for approval by other state or local government entities, such as  
26 compliance with fire or building codes, the department must be notified, but preapproval is not required for  
27 these modifications. An alteration for the purposes of this section is any structural change in a premises that

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1 does not increase the square footage of the existing approved premises. An alteration that increases the  
2 square footage of the existing approved premises must be approved by the department prior to beginning the  
3 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an  
4 alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the  
5 inspections by local government agencies may not be required for department approval.

6 (3) The interior portion of the licensed premises must be a continuous area that is under the  
7 control of the licensee and not interrupted by any area in which the licensee does not have adequate control,  
8 and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants  
9 in order to allow patrons to access other tenant businesses or private dwellings in the same building, including  
10 but not limited to entryways, hallways, stairwells, and elevators.

11 (4) The premises may include one or more exterior patios or decks as long as sufficient physical  
12 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional  
13 perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and  
14 impedes foot traffic.

15 (5) Premises suitability does not include a minimum number of seats.

16 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is  
17 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its  
18 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to  
19 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other  
20 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is  
21 \$100. On department approval, an on-premises consumption retailer's keg storage and beer lines running into  
22 the licensed premises may be in a noncontiguous storage area provided that the licensee is able to maintain  
23 control and adequate safeguards are in place to prevent public access.

24 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the  
25 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the  
26 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the  
27 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent

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1 underage service. The application fee is \$100.

2 (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the  
3 licensees are able to maintain control of their respective premises through adequate physical separation.

4 (9) (a) For the purposes of this section, "adequate physical separation" means:

5 (i) the premises of the retailer and the premises of the brewery or winery are secured after  
6 business hours from each other and from any other business, including but not limited to prohibiting a customer  
7 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of  
8 operation as specified in 16-3-213(2)(b); and

9 (ii) the separation may include doors, gates, or windows that may be left open during business  
10 hours.

11 (b) The term does not require permanent floor-to-ceiling walls."

12

13 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

14

- END -