

1 SENATE BILL NO. 75
2 INTRODUCED BY S. FITZPATRICK
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL LAWS RELATING TO
6 LICENSING; REVISING LAWS RELATED TO BREWERS AND BEER IMPORTERS; ALLOWING OUT-OF-
7 STATE BREWERIES TO BE REGISTERED IN MONTANA; ALLOWING CERTAIN SALES AND SHIPPING OF
8 BEER; REVISING LAWS RELATED TO BEER SHIPPED BY BEER WHOLESALERS; REVISING LAWS
9 RELATED TO RESORT AREA ALL-BEVERAGES LICENSES; REVISING LAWS RELATING TO SUITABLE
10 PREMISES FOR RETAIL LICENSES; PROVIDING THAT AN OUT-OF-STATE BREWERY REGISTERS;
11 REVISING LAWS RELATING TO THE SUITABILITY OF LICENSE APPLICANTS; REVISING LAWS
12 RELATING TO LICENSING QUALIFICATIONS; ADDING NEW ENTITY TYPES THAT CAN BE VETTED FOR
13 LICENSURE; AND AMENDING SECTIONS 16-3-211, 16-3-212, 16-3-214, 16-3-230, 16-3-302, 16-3-311, 16-4-
14 101, 16-4-107, 16-4-314, AND 16-4-401, MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 16-3-211, MCA, is amended to read:

19 **"16-3-211. Monthly report of brewer, beer importer, or retailer -- inspection of books and**
20 **premises.** (1) Every brewer and every beer importer licensed or registered to do business in this state shall, on
21 or before the 15th day of each month, as prescribed by the department, make an exact return to the department
22 of the amount of beer manufactured or imported by the brewer or importer, the amount sold by the brewer or
23 importer in the previous month, and the inventory of the brewer or importer. The department may make an
24 examination of any brewer's or beer importer's books and of the brewer's or importer's premises and otherwise
25 check the accuracy of any return or check the alcoholic content of beer manufactured or imported by the brewer
26 or importer.

27 (2) Every retailer licensed to do business in this state shall, on or before the 15th day of each

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1 month, as prescribed by the department, make an exact return to the department of the amount of beer
2 purchased in the previous month directly from any brewery not located in the state of Montana."
3

4 **Section 2.** Section 16-3-212, MCA, is amended to read:

5 **"16-3-212. Brewers' or beer importers' sales to wholesalers lawful.** A licensed or registered
6 brewer may sell or deliver beer manufactured by the brewer to any licensed wholesaler. A licensed or
7 registered beer importer may sell or deliver beer imported by the importer to any licensed wholesaler."
8

9 **Section 3.** Section 16-3-214, MCA, is amended to read:

10 **"16-3-214. Beer sales by brewers -- sample room exception.** (1) Subject to the limitations and
11 restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon
12 payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the
13 department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of
14 this code and rules prescribed by the department, to:

15 (a) sell and deliver beer from its storage depot or brewery to:

16 (i) a wholesaler;

17 (ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to
18 deliver the beer and if:

19 (A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a
20 day to each licensed retailer; and

21 (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels
22 a year; or

23 (iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or
24 growlers;

25 (b) provide its own products for consumption on its licensed premises without charge or, if it is a
26 small brewery, provide its own products at a sample room as provided in 16-3-213; or

27 (c) do any one or more of the acts of sale and delivery of beer as provided in this code.

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1 (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or
2 to licensed retailers.

3 (3) A brewery may import or purchase, upon terms and conditions the department may require,
4 necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing
5 purposes.

6 (4) An additional license fee may not be imposed on a brewery providing its own products on its
7 licensed premises for consumption on the premises.

8 (5) This section does not prohibit a licensed or registered brewer from shipping and selling beer
9 directly to a wholesaler in this state under the provisions of 16-3-230."
10

11 **Section 4.** Section 16-3-230, MCA, is amended to read:

12 **"16-3-230. Beer required to be shipped to wholesaler.** Except as provided in 16-3-214 and 16-4-
13 901, all beer that is to be distributed in Montana, ~~whether manufactured outside of or within the state of~~
14 ~~Montana,~~ must be consigned to and sold and shipped, either directly or via a licensed storage depot, to a
15 licensed wholesaler and unloaded into the wholesaler's warehouse in Montana or subwarehouse in Montana. A
16 brewer or beer importer ~~may sell only to wholesalers from a storage depot in Montana and shall maintain~~
17 records of all beer, including the name or kind received, on hand, and sold. The records may at any time be
18 inspected by a representative of the department. The wholesaler shall distribute the beer from the warehouse
19 or subwarehouse and shall keep records at the wholesaler's ~~principal place of business~~ licensed premises of all
20 beer, including the name or kind received, on hand, sold, and distributed. The records may be inspected by a
21 representative of the department at any time."
22

23 **SECTION 5. SECTION 16-3-302, MCA, IS AMENDED TO READ:**

24 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to
25 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the
26 retailer.

27 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf

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1 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under
2 16-4-109 to sell beer and wine:

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

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

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

10 (4) (a) It is lawful for a licensee who has an all-beverages license or a resort area all-beverages
11 license to sell alcoholic beverages:

12 (i) in the building or other structural premises constituting the primary indoor lodging quarters of a
13 hotel or other short-term lodging facility;

14 (ii) if the licensee's premises include a swimming pool, in a permanent, licensed alcohol service
15 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 service
17 structures separate from the main licensed premises within the exterior boundaries of the same premises that
18 are owned, leased, or otherwise under the control of and operated by the same property owner, licensee, and if
19 applicable, concessionaire;

20 (iv) if the licensee's premises include a golf course, the premises in addition to the main licensed
21 premises may include:

22 (A) the building or alcohol service structure constituting the clubhouse or primary recreational
23 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 (4) may be separate from the
26 building compromising the main licensed premises but must otherwise meet the premises suitability
27 requirements of 16-3-311. The licensee shall pay an application fee of \$100 for each area allowed under this

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1 subsection (4)."

2

3 **SECTION 6. 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(4). 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~~ alternate
20 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.

22 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the
23 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the
24 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the
25 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent
26 underage service. The application fee is \$100. On department approval, an on-premises consumption retailer's
27 keg storage and beer lines running into the licensed premises may be in a noncontiguous storage area

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1 provided that the licensee is able to maintain control and adequate safeguards are in place to prevent public
2 access.

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

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

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

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

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

13

14 **Section 7.** Section 16-4-101, MCA, is amended to read:

15 **"16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant.**

16 (1) Except as provided in subsection (4), Any any person desiring to manufacture, import, or sell beer under the
17 provisions of this code shall first apply to the department for a license to do so and pay with such the
18 application ~~the license fee~~ prescribed. The department shall require of such the applicant satisfactory evidence
19 that the applicant is of good moral character and a law-abiding person.

20 (2) ~~Upon On~~ being satisfied, from such the application or otherwise, that such the applicant is
21 qualified, the department shall issue such a license to such the person, ~~which and the license shall be must~~ at
22 all times be prominently displayed at the licensed premises ~~in the place of business of such applicant.~~

23 (3) If the department ~~shall find finds~~ that such the applicant is not qualified, ~~no a~~ license shall may
24 not be granted and such the license fee shall must be returned.

25 (4) A brewery that is not located in the state or a beer importer that holds the appropriate license
26 from the United States department of the treasury that desires to distribute its beer within this state through
27 licensed beer wholesalers shall apply to the department for registration on forms to be prepared and furnished

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1 by the department.

2 (5) A BREWERY OR BEER IMPORTER MAY NOT SHIP BEER INTO THIS STATE UNTIL THE REGISTRATION IS
3 GRANTED BY THE DEPARTMENT. THE REGISTRATION MAY BE CANCELED OR SUSPENDED BY THE DEPARTMENT UPON A
4 FINDING AFTER NOTICE AND HEARING THAT THE REGISTRANT HAS NOT COMPLIED WITH THE TERMS OF ITS
5 REGISTRATION."

6
7 **Section 8.** Section 16-4-107, MCA, is amended to read:

8 **"16-4-107. Winery license -- winery and importer registration.** (1) (a) Wine, other than for personal
9 consumption in conformity with federal exemptions from holding a basic permit as a bonded winery, may be
10 manufactured or directly distributed to retailers within the state only by a licensed winery, and table wine may
11 be shipped directly by a winery with a direct shipment endorsement as provided in 16-4-1101 to an individual in
12 Montana who is at least 21 years of age. An application for a winery license must be accompanied by a fee of
13 \$400, which constitutes the first annual license fee, and a licensee shall in each succeeding year pay an annual
14 fee as provided in 16-4-501. Winery licensees located in Montana must hold the appropriate basic permit
15 required by the United States department of the treasury and be qualified for a license in accordance with the
16 provisions of ~~16-4-401(4)~~ 16-4-401(2). Winery licensees located in another state must hold the appropriate
17 basic permit required by the United States department of the treasury and the appropriate license to
18 manufacture wine from the state in which the winery is located and shall provide all other information required
19 by the department.

20 (b) A winery located in Montana that is licensed to do business in the state shall, each quarter and
21 in the manner and form prescribed by the department, report to the department the amount of wine
22 manufactured or imported by the winery in the previous quarter and the winery's inventory. The department
23 may at any time examine a winery's books.

24 (2) (a) A winery that is not located in the state or an importer of table wines that holds the
25 appropriate license from the United States department of the treasury and that desires to distribute its table
26 wines within this state through licensed table wine distributors shall apply to the department ~~of revenue~~ for
27 registration on forms to be prepared and furnished by the department.

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1 (b) Each winery shall furnish the department with a copy of each container label currently used by
2 the winery on its products imported into Montana. The department shall require the winery or importer to agree
3 to furnish monthly and other reports concerning quantities and prices of table wine that it ships into the state,
4 names and addresses of consignees, and any other information that the department may determine to be
5 necessary to ensure that importation and distribution of table wines within this state conform to the
6 requirements of this code.

7 (c) A winery or importer of table wines may not ship table wines into this state until the registration
8 is granted by the department. The registration may be canceled or suspended by the department upon a finding
9 after notice and hearing that the registrant has not complied with the terms of its registration.

10 (3) A winery that is not located in Montana, that holds the appropriate license from the United
11 States department of the treasury, that is not already registered with the department, and that desires to sell
12 and ship table wine directly to individuals in Montana who are at least 21 years of age shall apply to the
13 department for registration pursuant to subsection (2) and for a direct shipment endorsement pursuant to 16-4-
14 1101."

15

16 **Section 9.** Section 16-4-314, MCA, is amended to read:

17 **"16-4-314. Academic brewer license under small brewer exception -- Flathead valley**

18 **community college or Montana state university-Billings -- conditions.** (1) Flathead valley community
19 college or Montana state university-Billings may apply for an academic brewer license under this section that
20 allows the licensee to brew and sell beer to wholesalers as provided in this section. The academic brewer
21 license:

22 (a) does not allow for the sale of beer at retail and does not allow for the operation of a sample
23 room as provided in 16-3-213;

24 (b) is limited to production of 10,000 barrels annually;

25 (c) allows for distribution only to wholesalers as provided in 16-3-214;

26 (d) is under the ownership of Flathead valley community college or Montana state university-
27 Billings;

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- 1 (e) is not subject to quotas under 16-4-105 or to the provisions of 16-3-306;
- 2 (f) may not offer gambling activities;
- 3 (g) is otherwise subject to laws applying to brewery licenses as provided in this code; and
- 4 (h) must operate in an on-campus facility operated in conjunction with a beer-brewing class or
- 5 curriculum taught at the community college or Montana state university-Billings.

6 (2) When Flathead valley community college or Montana state university-Billings has met the
7 conditions in subsection (3) and has paid the fee specified for a brewer under 16-4-501, the department shall
8 issue the academic brewer license.

9 (3) To obtain a license under this section, Flathead valley community college or Montana state
10 university-Billings shall:

- 11 (a) document approval by the community college district board of trustees or the board of regents
12 of higher education, as applicable;
- 13 (b) identify the on-campus location of the site where classes in beer making are to be held; and
- 14 (c) for criminal background requirements under 16-4-414, designate two or more individuals, each
15 of whom must have responsibility for licensing compliance and each of whom must meet the requirements in
16 16-4-401(2)(a)(4)(a).

17 (4) The department may adopt rules to implement this section."
18

19 **Section 10.** Section 16-4-401, MCA, is amended to read:

20 **"16-4-401. License as privilege -- criteria for decision on application -- restrictions.** (1) A license
21 under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is
22 entitled.

23 (2) Except as provided in 16-4-311 and subsection ~~(6)~~ (5) of this section and subject to subsection
24 (8), ~~in the case of a license that permits on-premises consumption,~~ the department shall find in every case in
25 which it makes an order for the issuance of a new license, ~~or for the approval of the transfer of a license,~~ or the
26 renewal of a license that:

27 (a) if the applicant is an individual:

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1 ~~(i) and the application is approved, the applicant will not possess an ownership interest in more than~~
2 ~~three establishments licensed under this chapter for all beverages sales. However, resort retail all-beverages~~
3 ~~licenses issued under 16-4-213 do not count toward this limit.~~

4 ~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-~~
5 ~~106 ;~~

6 ~~(iii) the applicant or any member of the applicant's immediate family is without financing from or any~~
7 ~~affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's~~
8 ~~spouse may possess an ownership interest in one or more manufacturer licenses;~~

9 ~~(iv)(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
10 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance~~
11 ~~with all applicable laws of the state and local governments; however, nothing in this subsection (2)(a)(iv)~~
12 ~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax~~
13 ~~protestor when renewing the license;~~

14 ~~(v)(ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a~~
15 ~~felony, the applicant's rights have been restored; and~~

16 ~~(vi)(iii) the applicant is not under 19 years of age;~~

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

18 (i) ~~each owner of 15% or more of the outstanding stock meets the requirements for an individual~~
19 ~~applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the~~
20 ~~applicant shall designate two or more officers or board members, each of whom must meet the requirements~~
21 ~~for an individual applicant listed in subsection (2)(a-);~~

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

24 ~~(iii) each person who shares in the profits or liabilities of a license meets the requirements for an~~
25 ~~individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a~~
26 ~~corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of~~
27 ~~subsection (8) apply.~~

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1 ~~(iv)~~(iii) the corporation is authorized to do business in Montana;

2 (c) if the applicant is a privately held corporation, all of the following must apply:

3 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
4 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the
5 applicant shall designate two or more officers or board members, each of whom must meet the requirements
6 for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet
7 the requirements of 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)(c)(iii) does not apply to a shareholder of a
12 corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of
13 subsection ~~(8)~~(7) apply.

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

15 (d) if the applicant is a general partnership, each partner must meet the requirements of
16 subsection (2)(a);

17 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
18 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
19 requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
20 limited partners must meet the requirements of subsection (2)(a).

21 (f) if the applicant is a limited liability company, ~~;~~

22 (i) all managing members and those members whose ownership interest in the company equals
23 or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or
24 exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

25 (ii) the limited liability company is authorized to do business in Montana;

26 (g) if the applicant is a trust, the trustee must meet the requirements of subsection (2)(a);

27 (h) if the applicant is a nonprofit organization;

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- 1 (i) the applicant shall designate two or more officers or board members, each of whom must meet
2 the requirements for an individual applicant listed in subsection (2)(a); and
3 (ii) the nonprofit organization is authorized to do business in Montana;
4 (i) if the applicant is a cooperative association:
5 (i) the applicant shall designate two or more officers or board members, each of whom must meet
6 the requirements for an individual applicant listed in subsection (2)(a); and
7 (ii) the cooperative association is authorized to do business in Montana.
8 ~~(3) In the case of a license that permits only off-premises consumption and subject to subsection (8),~~
9 ~~the department shall find in every case in which it makes an order for the issuance of a new license or for the~~
10 ~~approval of the transfer of a license that:~~
11 ~~(a) if the applicant is an individual:~~
12 ~~(i) and the application is approved, the applicant will not possess an ownership interest in more than~~
13 ~~three establishments licensed under this chapter for all beverages sales;~~
14 ~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-~~
15 ~~406;~~
16 ~~(iii) the applicant or any member of the applicant's immediate family is without financing from or any~~
17 ~~affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;~~
18 ~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony,~~
19 ~~the applicant's rights have been restored;~~
20 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
21 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance~~
22 ~~with all applicable laws of the state and local governments; however, nothing in this subsection (3)(a)(v)~~
23 ~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax~~
24 ~~protestor when renewing the license; 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 15% or more of the outstanding stock meets the requirements for an individual listed~~

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1 ~~in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall~~
2 ~~designate two or more officers or board members, each of whom must meet the requirements for an individual~~
3 ~~applicant listed in subsection (3)(a).~~

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

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

6 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual~~
7 ~~applicant listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the~~
8 ~~applicant shall designate two or more officers or board members, each of whom must meet the requirements~~
9 ~~for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet~~
10 ~~the requirements of subsection (3)(a).~~

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

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

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

18 ~~(f) if the applicant is a limited liability company, all managing members and those members whose~~
19 ~~ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (3)(a). If~~
20 ~~no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of~~
21 ~~subsection (3)(a).~~

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

25 ~~(a) if the applicant is an individual:~~

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

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1 ~~(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-~~
2 ~~406;~~

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

5 ~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
6 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance~~
7 ~~with all applicable laws of the state and local governments; however, nothing in this subsection (4)(a)(iv)~~
8 ~~authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax~~
9 ~~protestor when renewing the license;~~

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

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

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

14 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual listed~~
15 ~~in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall~~
16 ~~designate two or more officers or board members, each of whom must meet the requirements for an individual~~
17 ~~applicant listed in subsection (4)(a).~~

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

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

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

22 ~~(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual~~
23 ~~applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the~~
24 ~~applicant must designate two or more officers or board members, each of whom must meet the requirements~~
25 ~~for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet~~
26 ~~the requirements of subsection (4)(a).~~

27 ~~(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or~~

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1 ~~controlled by a manufacturer of an alcoholic beverage; and~~

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

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

4 ~~(4)(a);~~

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

6 ~~limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the~~

7 ~~requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all~~

8 ~~limited partners must meet the requirements of subsection (4)(a).~~

9 ~~(f) if the applicant is a limited liability company, all managing members and those members whose~~

10 ~~ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If~~

11 ~~no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of~~

12 ~~subsection (4)(a).~~

13 (3) The applicant and any individual of the applicant who must meet the requirements of (2)(a)

14 must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this

15 subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an

16 income tax protestor when renewing the license.

17 ~~(5)4~~ In the case of a corporate applicant, the requirements of subsections (2)(b), ~~(3)(b)~~, and ~~(4)(b)~~ or

18 ~~(2)(c)~~ apply separately to each class of stock.

19 ~~(6)5~~ The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant

20 to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107.

21 ~~(7)6~~ An applicant's source of funding must be from a suitable source. A lender or other source of

22 money or credit may be found unsuitable if the source:

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

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

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

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

27 business; or

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1 (b) has been convicted of a felony offense ~~within 5 years of the date of application or is on~~
2 ~~probation or parole or under deferred prosecution for committing a felony offense, unless the person's rights~~
3 ~~have been restored.~~

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

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

11 ~~(9)(7) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing~~
12 ~~in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a~~
13 ~~licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make~~
14 ~~purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within~~
15 ~~90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000~~
16 ~~with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.~~

17 (b) A licensee's use of short-term financing of 90 days or less from institutional lenders and
18 noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

19 (c) It is the intent of this subsection ~~(9)-(7)~~ to facilitate the efficient administration of an entity
20 licensed under this code.

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 a business or family relationship share in the profits or
25 liabilities of all-beverages licenses, the aggregate number of licenses in which they share in the profits or
26 liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in
27 which the all-beverages licenses will be held.

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1 (c) An applicant applying for an all-beverages license and any individual of the applicant who must
2 meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an
3 ownership interest in more than three establishments licensed under this chapter for all-beverages sales.

4 However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

5 (d) An applicant and any individual of the applicant who must meet the requirements of subsection
6 (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106.

7 (e) An applicant for an on-premises consumption license or any member of the applicant's
8 immediate family must be without financing from and may not have any affiliation to a manufacturer, importer,
9 bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership
10 interest in one or more manufacturer licenses. This prohibition also applies to any individual of the applicant
11 who must meet the requirements of subsection (2)(a).

12 (f) An applicant for an off-premises consumption license or any member of the applicant's
13 immediate family must be without financing from and may not have any affiliation to a manufacturer, importer,
14 bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who
15 must meet the requirements of subsection (2)(a).

16 (g) An applicant for a manufacturing, importing, or wholesaling license and any individual of the
17 applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any
18 establishment licensed under this chapter for retail alcoholic beverage sales.

19 (h) An applicant for a wholesale license and any individual of the applicant who must meet the
20 requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled
21 by a manufacturer of an alcoholic beverage."

22
23 NEW SECTION. Section 11. TRANSITION. THE DEPARTMENT SHALL RECLASSIFY EXISTING LICENSES TO A
24 REGISTRANT PURSUANT TO [SECTION 5 7] AFTER JUNE 30, 2024, AND DURING THE EXISTING LICENSEE'S RENEWAL.

25
26 COORDINATION SECTION. Section 12. Coordination instruction. If both House Bill No. 539 and
27 [this act] are passed and approved and both contain a section amending 16-3-311, then the sections amending

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1 16-3-311 are void and 16-3-311 must be amended as follows:

2 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may
3 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages, except as
4 otherwise allowed in 16-3-302(4). The licensed retailer must demonstrate that it has adequate control over all
5 alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are
6 actually or apparently intoxicated. Except as provided in subsection (8), the premises must be separated from
7 the rest of the building by permanent walls but may have inside access to the rest of the building at all times
8 even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in
9 which the alcoholic beverages are served. A licensee may lease the kitchen or another specified area to allow
10 another business entity to operate a business within its premises without permanent floor-to-ceiling walls and
11 without a concession agreement if the other business does not take orders for, serve, or deliver alcohol and has
12 a separate point of sale system. If the premises are located in a portion of a building, the licensed retailer must
13 be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic
14 beverages after hours, either by the presence of a lockable door or other security features such as rolling gates,
15 locking cabinets, tap locks, or key card access.

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

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

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1 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
2 alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the
3 inspections by local government agencies may not be required for department approval.

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

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

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

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

22 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the
23 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the
24 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the
25 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent
26 underage service. The application fee is \$100.

27 (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the

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1 licensees are able to maintain control of their respective premises through adequate physical separation.
2 (9) (a) For the purposes of this section, "adequate physical separation" means:
3 (i) the premises of the retailer and the premises of the brewery or winery are secured after
4 business hours from each other and from any other business, including but not limited to prohibiting a customer
5 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of
6 operation as specified in 16-3-213(2)(b); and
7 (ii) the separation may include doors, gates, or windows that may be left open during business
8 hours.
9 (b) The term does not require permanent floor-to-ceiling walls."

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17

NEW SECTION. Section 13. EFFECTIVE DATES. (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (2), [SECTIONS~~
~~Sections 1 THROUGH 5 4 AND 7] ARE EFFECTIVE JULY 1, 2024.~~
(2) [SECTIONS ~~6 THROUGH 8 8 THROUGH 1012~~] AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND
APPROVAL.
(3) [Sections 5 and 6] are effective October 1, 2023.

- END -