

1 HOUSE BILL NO. 871
 2 INTRODUCED BY S. ESSMANN, C. KNUDSEN, B. MITCHELL, R. MARSHALL, C. HINKLE, J. ETCHART, Z.
 3 WIRTH, N. NICOL

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN OFF-PREMISES ALL-BEVERAGES LICENSE;
 6 AMENDING CERTAIN OFF-PREMISES LICENSES; PROVIDING RESTRICTIONS ON THE SALE OF
 7 ALCOHOL AT THE PREMISES; PROVIDING FEES; AND AMENDING SECTIONS 16-3-306, 16-3-310, 16-4-
 8 115, 16-4-402, AND 16-4-501, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
 12 **Section 1.** Section 16-3-306, MCA, is amended to read:

13 **"16-3-306. Proximity to churches and schools restricted.** (1) Except as provided in subsections (2)
 14 through (4), ~~a~~an on-premises retail license may not be issued pursuant to this code to any business or
 15 enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a
 16 church, synagogue, or other place of worship or as a school other than a commercially operated or
 17 postsecondary school. This distance must be measured in a straight line from the center of the nearest
 18 entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a
 19 limitation upon the department's licensing authority.

20 (2) However, the department may renew ~~a~~an on-premises license for any establishment located in
 21 violation of this section if the licensee does not relocate an entrance any closer than the existing entrances and
 22 if the establishment:

- 23 (a) was located on the site before the place of worship or school opened; or
- 24 (b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since
 25 January 1, 1937.

26 (3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or ~~both~~liquor in the
 27 original package for off-premises consumption.

28 (4) Subsection (1) does not apply within the applicable jurisdiction of a local government that has



1 supplanted the provisions of subsection (1) as provided in 16-3-309."

2

3 **Section 2.** Section 16-3-310, MCA, is amended to read:

4 **"16-3-310. Lapse of license for nonuse.** Any retail license issued pursuant to this code (including
5 any retail license to sell beer, ~~and table wine,~~ or liquor for off-premises consumption) not actually used in a
6 going establishment for 90 days shall automatically lapse. Upon determining the fact of nonuse for such period,
7 the department shall cancel such license of record and no portion of the fee paid therefor shall be refundable.
8 The provisions of this section shall not apply to the license of any licensee whose premises are operated on a
9 seasonal basis in connection with a bona fide dude ranch, resort, park hotel, tourist facility, or like business,
10 provided such licensee has secured written authority from the department to close and has licensed premises
11 for a specified period of greater than 90 days' duration. Should the department determine that such lapse was
12 reasonably beyond the control of the licensee, then the lapse provision shall not apply."

13

14 **Section 3.** Section 16-4-115, MCA, is amended to read:

15 **"16-4-115. ~~Beer and wine licenses~~ Licenses for off-premises consumption.** (1) (a) A retail license
16 to sell beer or table wine, or both, in the original packages for off-premises consumption may be issued only to
17 a person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to
18 sell beer or table wine, or both. If the premises proposed for licensing are operated in conjunction with another
19 business, that business must be a grocery store, convenience store, or drugstore licensed as a pharmacy. The
20 number of licenses that the department may issue is not limited by the provisions of 16-4-105 but must be
21 determined by the department in the exercise of its sound discretion, and the department may in the exercise of
22 its sound discretion grant or deny an application for any license or suspend or revoke any license for cause.

23 (b) A retail license to sell beer, table wine, or liquor in the original packages for off-premises
24 consumption may be issued only to a person, firm, or corporation that is approved by the department as a
25 person, firm, or corporation qualified to sell beer, table wine, or liquor. The premises proposed for licensing
26 must be a grocery store or drugstore licensed as a pharmacy that is at least 20,000 square feet. The number of
27 licenses that the department may issue is not limited by the provisions of 16-4-201 but must be determined by
28 the department in the exercise of its sound discretion, and the department may in the exercise of its sound

1 discretion, for justifiable reasons under this code, grant or deny an application for any license or suspend or
 2 revoke any license for cause.

3 (2) Licensees under this section must have alcohol in a designated alcohol-only area of the store
 4 away from similar nonalcoholic products or items that appeal to children. The alcohol area may not exceed 10%
 5 of the total square footage of the licensed premises.

6 ~~(2)~~(3) Upon receipt of a completed application for a license under this section, accompanied by the
 7 necessary license fee as provided in 16-4-501, the department shall request that the department of justice
 8 make a background investigation of all matters relating to the application.

9 ~~(3)~~(4) Based on the results of the investigation or in exercising its sound discretion as provided in
 10 subsection (1), the department shall determine whether:

11 (a) the applicant is qualified to receive a license;

12 (b) the applicant's premises are suitable for the carrying on of the business; and

13 (c) the requirements of this code and the rules promulgated by the department are met and
 14 complied with.

15 ~~(4)~~(5) License applications submitted under this section are not subject to the provisions of 16-4-203
 16 and 16-4-207.

17 ~~(5)~~(6) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in
 18 original packaging."
 19

20 **Section 4.** Section 16-4-402, MCA, is amended to read:

21 **"16-4-402. Application -- investigation.** (1) Prior to the issuance of a license under this chapter, the
 22 applicant shall file with the department an application containing information and statements relative to the
 23 applicant and the premises where the alcoholic beverage is to be sold as required by the department.

24 (2) (a) Upon receipt of a completed application for a license under this code, accompanied by the
 25 necessary license fee, the department of justice shall make a thorough investigation of all matters relating to
 26 the application. Based on the results of the investigation or on other information, the department shall
 27 determine whether:

28 (i) the applicant is qualified to receive a license; and

1 (ii) (A) the applicant's premises are suitable for the carrying on of the business;

2 (B) the applicant is qualified to receive a license prior to a determination that the applicant's
3 premises are suitable for carrying on with the business in accordance with 16-4-417; or

4 (C) if the applicant has already been issued a license, the proposed premises are suitable for the
5 carrying on of the business.

6 (b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-
7 204(5), a retail beer and wine license for off-premises consumption as provided in 16-4-115, a retail beer, table
8 wine, and liquor license for off-premises consumption as provided in 16-4-115, or a special permit provided in
9 16-4-301.

10 (c) For an original license application and an application for transfer of ownership or location of a
11 license, the department of justice's investigation and the department's determination under this subsection (2)
12 must be completed within 90 days of the receipt of a completed application. If information is requested from the
13 applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information
14 is received by the requesting department. The time period is also tolled if the applicant requests and is granted
15 a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-
16 311, or newly constructed. The basis for the tolling of the deadline must be documented.

17 (3) (a) Upon proof that an applicant made a false statement in any part of the original application,
18 in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the
19 application for the license may be denied, and if issued, the license may be revoked.

20 (b) A statement on an application or at a hearing that is based upon a verifiable assertion made by
21 a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the
22 basis of a false statement for a denial or revocation of a license."
23

24 **Section 5.** Section 16-4-501, MCA, is amended to read:

25 **"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table wine
26 only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise
27 specified in this section, the fee is an annual fee and is imposed as follows:

28 (a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for

- 1 sale within the state, \$500;
- 2 (ii) for each storage depot, \$400;
- 3 (b) (i) each beer wholesaler, \$400; each winery, \$200; each table wine distributor, \$400;
- 4 (ii) for each subwarehouse, \$400;
- 5 (c) each beer retailer, \$200;
- 6 (d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer
- 7 license;
- 8 (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in
- 9 conjunction with beer, \$200;
- 10 (iii) for a license to sell beer, table wine, and liquor at retail for off-premises consumption only,
- 11 initial application fee of \$1,000 and an annual renewal fee of \$800;
- 12 (e) any unit of a nationally chartered veterans' organization, \$50.
- 13 (2) The permit fee under 16-4-301(1) is computed at the following rate:
- 14 (a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting
- 15 contests, other than those applied for pursuant to 16-4-301(1)(c); and
- 16 (b) \$1,000 a season for professional sporting contests or junior hockey contests held under the
- 17 provisions of 16-4-301(1)(c).
- 18 (3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the
- 19 sale of all alcoholic beverages.
- 20 (4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license
- 21 fee in the sum of \$300.
- 22 (5) The annual license fee for a license to sell wine on the premises, when issued as an
- 23 amendment to a beer-only license pursuant to 16-4-105, is \$200.
- 24 (6) The annual renewal fee for:
- 25 (a) a brewer producing 10,000 or fewer barrels of beer, as defined in 16-1-406, is \$200;
- 26 (b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license; and
- 27 (c) a continuing care retirement community limited all-beverages license is \$500 for each license.
- 28 (7) Except as provided in this section, each licensee licensed under the quotas of 16-4-201 shall

1 pay an annual license fee as follows:

2 (a) for each license outside of incorporated cities and incorporated towns or in incorporated cities
3 and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans'
4 organization and \$400 for all other licensees;

5 (b) for each license in incorporated cities with a population of more than 2,000 and less than 5,000
6 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be
7 licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and
8 \$500 for all other licensees;

9 (c) for each license in incorporated cities with a population of more than 5,000 and less than
10 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to
11 be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization
12 and \$650 for all other licensees;

13 (d) for each license in incorporated cities with a population of 10,000 or more or within a distance
14 of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest
15 boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other
16 licensees;

17 (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated
18 towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest
19 boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles
20 of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations,
21 the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the
22 applicant. When the premises of the applicant to be licensed are situated within an incorporated town or
23 incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the
24 license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the
25 applicant.

26 (f) an applicant for the issuance of a resort retail all-beverages license shall pay a \$100,000
27 license fee on issuance of the license. The resort retail all-beverages license may be transferred to another
28 location within the boundaries of the resort area or to another owner to be used at a location within the

1 boundaries of the resort area.

2 (8) The fee for one all-beverages license to a public airport is \$800. This license is
3 nontransferable.

4 (9) The annual fee for a retail beer and wine license to the Yellowstone airport is \$400.

5 (10) The annual fee for a special beer and table wine license for a nonprofit arts organization under
6 16-4-303 is \$250.

7 (11) The annual fee for a distillery is \$600.

8 (12) The license fees provided in this section are exclusive of and in addition to other license fees
9 chargeable in Montana for the sale of alcoholic beverages.

10 (13) In addition to other license fees, the department of revenue may require a licensee to pay a
11 late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's
12 anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month
13 after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal
14 year or 1 year and 2 months after the licensee's anniversary date.

15 (14) All license and permit fees collected under this section must be deposited as provided in 16-2-
16 108."

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