

1 HOUSE BILL NO. 549

2 INTRODUCED BY K. SEEKINS-CROWE, C. SCHOMER, E. BUTTREY, S. GIST, G. OBLANDER, S.

3 ESSMANN, J. LYNCH

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS;
6 ALLOWING A MONTANA DISTILLERY LICENSEE TO MARKET AND SELL INTERESTS IN AGING LIQUOR
7 THROUGH WAREHOUSE RECEIPTS; ALLOWING THE RESALE OF LIQUOR WAREHOUSE RECEIPTS;
8 ALLOWING MANAGEMENT AND BROKERING OF WAREHOUSE RECEIPT SALES; PROVIDING THAT
9 OWNERSHIP OF WAREHOUSE RECEIPTS FOR LIQUOR DOES NOT CONSTITUTE AN OWNERSHIP
10 INTEREST IN THE DISTILLERY BUSINESS OR LICENSEE; AMENDING SECTIONS 16-4-312 AND 16-4-
11 401, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 16-4-312, MCA, is amended to read:

16 **"16-4-312. Domestic distillery.** (1) A distillery located in Montana and licensed pursuant to 16-4-311
17 may:

18 (a) import necessary products in bulk;
19 (b) bottle, produce, blend, store, transport, or export liquor that it produces;
20 (c) perform those operations that are permitted for bonded distillery premises under applicable
21 regulations of the United States department of the treasury; and
22 (d) have a premises that includes more than one building for manufacturing purposes pursuant to
23 27 CFR 19.53 and is operated under a federal basic permit.

24 (2) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to
25 the department under this code, and the department shall include the distillery's liquor as a listed product.

26 (b) The distillery may use a common carrier for delivery of the liquor to the department.

27 (c) A distillery that produces liquor within the state under this subsection (2) shall maintain records
28 of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and

1 prices of liquor that it ships to the department and other information that the department may determine to be
2 necessary to ensure that distribution of liquor within this state conforms to the requirements of this code.

3 (3) (a) A distillery that is located in Montana and licensed to manufacture distilled spirits may be
4 licensed by the department to own, lease, maintain, and operate anywhere in the state a storage depot for
5 receiving, handling, and storing distilled spirits in addition to distributing and selling distilled spirits from the
6 storage depot, subject to this code.

7 (b) To be licensed for a storage depot, a distillery shall pay an annual license fee as provided in
8 16-4-501 for each storage depot operated by the distillery, in addition to all other fees and taxes required to be
9 paid by the distillery, and must meet all applicable suitability requirements.

10 (4) A microdistillery may:

11 (a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the
12 microdistillery to consumers for prepared servings:

13 (i) through curbside pickup between 10 a.m. and 8 p.m.; and

14 (ii) for on-premises consumption during the hours of operation that are identical to those allowed
15 for a brewery license provided for in 16-3-213(2)(b) and corresponding administrative rules relating to the
16 service, consumption, and possession of alcoholic beverages on the premises; or

17 (b) sell liquor in original packaging that it produces at retail at the distillery between the hours of 8
18 a.m. and 2 a.m. directly to the consumer, including curbside pickup, for off-premises consumption if:

19 (i) not more than 4.5 liters a day is sold to an individual; and

20 (ii) the minimum retail price as determined by the department is charged.

21 (5) Liquor samples provided pursuant to subsection (4)(a) are not permitted at more than one
22 manufacturing premises for each license.

23 (6) (a) A distillery located in the state and licensed pursuant to 16-4-311 may issue or sell
24 warehouse receipts to any person. The warehouse receipt is for liquor stored at the distillery's licensed
25 premises, including a licensed warehouse premises of the distillery, within the portion of the premises that is
26 bonded pursuant to federal law, as provided in Title 30, chapter 7, except that for the purposes of this
27 subsection (6), the term "distilled spirits" in 30-7-201(2) means "liquor" as defined in 16-1-106. The sale or
28 purchase of warehouse receipts as provided in this subsection (6) does not constitute a transfer of an

1 ownership interest in the distillery business or license.

2 (b) The department may not require any application or report to be filed in connection with the sale
3 or purchase of warehouse receipts, provided that the liquor to which the warehouse receipts apply must
4 physically remain within the distillery's licensed premises, including a licensed warehouse premises of the
5 distillery, until the liquor is physically transferred in bond to another federally bonded premises, or until the
6 liquor is otherwise transferred, sold, or disposed of in accordance with this code or applicable federal law.

7 (c) Warehouse receipts originally issued by a distillery as provided in this subsection (6) may be
8 resold by a holder of the warehouse receipts to any person. A distillery or any subsequent holder of warehouse
9 receipts may use an intermediary business to market, facilitate, manage, sell, and invest in warehouse receipts.

10 (d) A person may purchase or otherwise invest in warehouse receipts originally issued by
11 distilleries licensed under federal law, regardless of whether the distillery is located in the state. Nothing in this
12 section authorizes the holder or owner of a warehouse receipt to accept delivery of any liquor unless the person
13 is permitted under law to receive the liquor."

14

15 **Section 2.** Section 16-4-401, MCA, is amended to read:

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

19 (2) Except as provided in 16-4-311 and subsection (5) of this section and subject to subsection (8),
20 the department shall find in every case in which it makes an order for the issuance of a new license, for the
21 approval of the transfer of a license, or for the renewal of a license that:

22 (a) if the applicant is an individual:

23 (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a
24 business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance
25 with all applicable laws of the state and local governments;

26 (ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
27 felony, the applicant's rights have been restored; and

28 (iii) the applicant is not under 19 years of age;

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

2 (i) the applicant shall designate two or more officers or board members, each of whom must meet
3 the requirements for an individual applicant listed in subsection (2)(a);

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

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

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

8 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
9 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the
10 applicant shall designate two or more officers or board members, each of whom must meet the requirements
11 for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet
12 the requirements of subsection (2)(a).

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

15 (iii) each person who shares in the profits or liabilities of a license meets the requirements for an
16 individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a
17 corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of
18 subsection (7) apply.

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

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

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

26 (f) if the applicant is a limited liability company:

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

1 exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

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

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

4 (h) if the applicant is a nonprofit organization:

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 nonprofit organization is authorized to do business in Montana;

8 (i) if the applicant is a cooperative association:

9 (i) the applicant shall designate two or more officers or board members, each of whom must meet
10 the requirements for an individual applicant listed in subsection (2)(a); and

11 (ii) the cooperative association is authorized to do business in Montana.

12 (3) The applicant and any individual of the applicant who must meet the requirements of (2)(a)
13 must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this
14 subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an
15 income tax protestor when renewing the license.

16 (4) In the case of a corporate applicant, the requirements of subsection (2)(b) or (2)(c) apply
17 separately to each class of stock.

18 (5) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant
19 to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107.

20 (6) An applicant's source of funding must be from a suitable source. A lender or other source of
21 money or credit may be found unsuitable if the source:

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

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

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

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

27 (b) has been convicted of a felony unless the person's rights have been restored.

28 (7) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing

1 in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a
2 licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make
3 purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within
4 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000
5 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

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

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

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

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

17 (c) An applicant applying for an all-beverages license and any individual of the applicant who must
18 meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an
19 ownership interest in more than the limit established in 16-4-205 for establishments licensed under this chapter
20 for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count
21 toward this limit.

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

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

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

5 (g) Except as provided in subsection (9), an applicant for a manufacturing, importing, or
6 wholesaling license and any individual of the applicant who must meet the requirements of subsection (2)(a)
7 may not possess an ownership interest in any establishment licensed under this chapter for retail alcoholic
8 beverage sales.

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

12 (9) (a) A person with an ownership interest in a licensed brewery or licensed winery may hold
13 complete ownership of up to a combined total of three retail licenses issued pursuant to 16-4-105 or 16-4-201.
14 The owner of a retail license issued pursuant to 16-4-105 or 16-4-201 may hold complete ownership of brewery
15 or winery licenses. The first of these licenses must be a colocated license.

16 (b) A person with an ownership interest in a licensed distillery may hold complete ownership of up
17 to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201
18 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

19 (c) A person with an ownership interest in a retail license issued pursuant to 16-4-105 may not
20 also have an ownership interest in a distillery license.

21 (d) To hold both a manufacturing license and a retail license pursuant to this subsection (9), a
22 licensee:

23 (i) must maintain both the manufacturing license and the retail license on the same premises for
24 the first of these licenses, known as a colocated premises;

25 (ii) must have 100% of the same ownership between the manufacturing license and the retail
26 license; and

27 (iii) must provide and serve through the retail license alcohol produced by other manufacturers that
28 are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business

1 in which the license was issued pursuant to 16-4-105 and 16-4-201, or the licensed brewery, winery, or
2 distillery.

3 (e) Colocated licenses may transfer beer manufactured, liquor distilled, or wine produced by the
4 licensee between the colocated manufacturing license and the retail license without it being considered
5 distributed or delivered as provided in this code.

6 (f) For the purposes of this code, the following definitions apply:

7 (i) "Colocated license" means a manufacturing license and a retail license owned completely by a
8 licensee and that are operated at one premises.

9 (ii) "Colocated premises" means a premises where a manufacturing license and a retail license are
10 both located.

11 (10) Ownership of warehouse receipts as provided in 16-4-312 does not constitute ownership,
12 control, or affiliation with the distillery that originally issued the warehouse receipt. A person who holds a
13 warehouse receipt as provided in 16-4-312(6) is not restricted from any activity regulated by the department
14 that is otherwise legal for the person. Except in connection with the department's income tax enforcement
15 duties as provided in Title 15, the department is not authorized to require a distillery or any other person to
16 provide information regarding the sale or purchase of warehouse receipts."

17

18 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2025.

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