

SENATE BILL NO. 90

INTRODUCED BY E. BOLDMAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOLIC BEVERAGE LAWS RELATED TO BOTTLE CLUBS; ALLOWING MARKETPLACES TO GIVE AWAY SMALL QUANTITIES OF BEER OR WINE TO BONA FIDE CUSTOMERS; REVISING THE DEFINITION OF "PRIVATE GATHERING"; REVISING THE DEPARTMENT OF REVENUE'S AUTHORITY OVER INDIVIDUALS OR ENTITIES OPERATING BOTTLE CLUBS; PROVIDING ENFORCEMENT PROVISIONS; AND AMENDING SECTION 16-6-306, MCA."

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

Section 1. Section 16-6-306, MCA, is amended to read:

"16-6-306. Bottle clubs prohibited -- exceptions. (1) The operation of alcoholic beverage bottle clubs is prohibited by any individual or entity. A bottle club is defined as any individual or entity maintaining, operating, or leasing premises not licensed for the sale of alcoholic beverages in which alcoholic beverages are kept for consumption by members of the public or for the purpose of providing a place for consuming alcoholic beverages by members of the public for a fee or other consideration. For the purposes of this subsection, "consideration" includes but is not limited to a cover charge, the sale of food, ice, mixers, or any other fluids for alcoholic beverages, the furnishing of glassware or other containers for use in the consumption of alcoholic beverages, or the expectation of a purchase of a good or service.

(2) Nothing in this section prevents the service or consumption of alcoholic beverages at private gatherings. For the purposes of this subsection, "private gathering" means an event hosted by an individual that is not open to the general public and in which no fee or consideration is charged to attend the event, such as a wedding, reception, graduation party, or picnic. The term does not include an event catered by a licensed retailer. For the purposes of this subsection, the term "not open to the general public" means open only to invited guests of the private gathering.

(3) Nothing in this section prohibits a licensed on-premises retailer or concessionaire from opening

1 and serving to patrons 21 years of age or older wine from a sealed bottle brought to the premises by the patron
2 for on-premises consumption. This service may not constitute a violation of 16-3-301 or this section, regardless
3 of whether the licensed retailer charges a corkage fee.

4 (4) Nothing in this section prohibits a marketplace, such as an art instruction studio, barbershop,
5 bridal shop, day spa, hair salon, or retail store, from giving up to 5 ounces of wine or 12 ounces of beer to a
6 bona fide customer for consumption at the marketplace or from giving a single beer or wine in its original
7 packaging or a growler to a bona fide customer for consumption outside the marketplace. For the purposes of
8 this subsection, "marketplace" does not include a business solely dedicated or directly related to the on-
9 premises or off-premises consumption of alcoholic beverages, such as a bar, restaurant, convenience store, or
10 grocery store. This subsection does not authorize the possession or consumption of alcoholic beverages not
11 provided by the marketplace.

12 (5) The Subject to the opportunity for a hearing pursuant to Title 2, chapter, 4, part 6, the
13 department may assess a fine of up to \$500 issue a permanent order to cease and desist that remains in effect
14 pending judicial review against individuals or entities serving alcoholic beverages or allowing consumption of
15 alcoholic beverages in violation of subsection (1) without a license or special permit or against marketplaces
16 providing more than the quantities allowed in subsection (4)."

17 - END -