

1 HOUSE BILL NO. 455

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE DEPARTMENT OF REVENUE'S PROHIBITION
6 ON APPROVING GELATIN CUP ALCOHOLIC BEVERAGE PRODUCTS; AND AMENDING SECTION 16-1-
7 303, MCA."

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9 WHEREAS, ARM 42.11.402 and 42.13.201 specifically prohibit the approval of gelatin cup alcoholic
10 products for use in Montana and the amendment to section 16-1-303, MCA, seeks to have the department
11 remove that prohibition.

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

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15 **Section 1.** Section 16-1-303, MCA, is amended to read:

16 **"16-1-303. Department rules.** (1) The department and the department of justice may make rules not
17 inconsistent with this code necessary to efficiently administer this code.

18 (2) Rules made by the department may include but are not limited to the following:

19 (a) regulating the contractual operation of agency liquor stores and warehouses in which liquor is
20 kept or sold and prescribing the books and records to be kept;

21 (b) prescribing the duties of department employees and regulating their conduct while in the
22 discharge of their duties;

23 (c) governing the purchase of liquor and the furnishing of liquor to agency liquor stores;

24 (d) determining the classes, varieties, and brands of liquor to be available for distribution from the
25 state liquor warehouse, however, the department may not prohibit gelatin cup alcoholic beverage products that
26 are liquid at room temperature from distribution from the state liquor warehouse;

27 (e) prescribing the minimum hours during which agency liquor stores must be open for the sale of
28 alcoholic beverages;

- 1 (f) providing for the issuing and distributing of price lists showing the price to be paid by
2 purchasers for each class, variety, or brand of liquor kept for sale;
- 3 (g) prescribing forms to be used for the purpose of this code or the rules and the terms and
4 conditions for permits and licenses issued and granted under this code;
- 5 (h) prescribing the form of records of purchase of liquor and the reports to be made to the
6 department and providing for inspection of the records;
- 7 (i) prescribing the manner of giving and serving notices required by this code or the rules;
- 8 (j) prescribing the fees payable for permits and licenses issued under this code for which fees are
9 not prescribed in this code and prescribing the fees for anything done or permitted to be done under the rules;
- 10 (k) prescribing, subject to the provisions of this code, the conditions and qualifications necessary
11 for the obtaining of alcoholic beverage licenses and the books and records to be kept and the returns to be
12 made by the licensees;
- 13 (l) specifying and describing the place and the manner in which alcoholic beverages may be
14 lawfully kept or stored;
- 15 (m) specifying and regulating the time when and the manner by which vendors and brewers may
16 deliver alcoholic beverages under this code and the time when and the manner by which alcoholic beverages,
17 under this code, may be lawfully conveyed or carried;
- 18 (n) governing the conduct, management, and equipment of any premises licensed to sell alcoholic
19 beverages under this code;
- 20 (o) providing for the imposition and collection of taxes and making rules respecting returns,
21 accounting, and payment of the taxes to the department.
- 22 (3) The department of justice may adopt rules to administer and implement its responsibilities
23 under this title, including but not limited to rules providing for the inspection of licensed premises or premises
24 where the sale of liquor has been proposed.
- 25 (4) Whenever this code provides that an act may be done if authorized by rules, the department,
26 subject to the restrictions in subsection (1), may make rules respecting the act.
- 27 (5) The department shall use the negotiated rulemaking procedures contained in Title 2, chapter 5,
28 for the purpose of adoption of rules related to the operation of agency liquor stores. However, the department

1 may not be required to pay any expenses of the participants or of any persons engaged in the rulemaking
2 process as provided for in 2-5-110."

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4 NEW SECTION. **Section 2. Transition.** The department of revenue is directed to remove references
5 and prohibitions relating to gelatin cup alcoholic beverage products in ARM 42.11.402 and 42.13.201.

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