

HOUSE BILL NO. 305

INTRODUCED BY E. BUTTREY, K. ZOLNIKOV, L. JONES, M. HOPKINS, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL LICENSE LAWS RELATING TO MANUFACTURERS AND RETAILERS; ALLOWING A LIMITED EXCEPTION FOR LICENSED BREWERS, DISTILLERS, AND WINERIES TO HOLD RETAIL LICENSES; ALLOWING A LIMITED EXCEPTION FOR RETAIL LICENSEES TO HOLD A BREWER, DISTILLER, OR WINERY LICENSE; PROVIDING LIMITATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-3-213, 16-3-214, 16-3-241, 16-3-242, 16-3-244, 16-3-311, 16-3-411, 16-4-311, AND 16-4-401, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 16-3-213, MCA, is amended to read:

"16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions. (1) Except as provided for small breweries in subsection (2) and except as provided in 16-4-401(10), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 100 barrels or more than 60,000 barrels, including:

(i) the production of all affiliated manufacturers; and

(ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises. The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day for consumption on the premises or in prepared

1 servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's
2 sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises
3 sample room consumption, including all affiliated manufacturers.

4 (3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

5 (a) that one or more members of the manufacturing entity have more than a majority share interest
6 in or that controls directly or indirectly another beer manufacturing entity;

7 (b) for which the business operations conducted between or among entities are interrelated or
8 interdependent to the extent that the net income of one entity cannot reasonably be determined without
9 reference to operations of the other entity; or

10 (c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or
11 logos are identical or nearly identical.

12 (4) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10),
13 beer that is manufactured and sold at the colocated premises is not subject to the limitations imposed by this
14 section. Beer manufactured and sold at the colocated premises does count toward production levels for tax
15 purposes."

16
17 **Section 2.** Section 16-3-214, MCA, is amended to read:

18 **"16-3-214. Beer sales by brewers -- sample room exception.** (1) Subject to the limitations and
19 restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon
20 payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the
21 department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of
22 this code and rules prescribed by the department, to:

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

24 (i) a wholesaler;

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

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

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

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

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

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

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

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

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

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

17 (6) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10),
18 beer that is manufactured and sold at the colocated premises does not count towards the 10,000-barrel self-
19 distribution limit imposed by subsection (1)(a)(ii)(B). Beer manufactured and sold at the colocated premises
20 does count toward production levels for tax purposes."

21

22 **Section 3.** Section 16-3-241, MCA, is amended to read:

23 **"16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer**

24 **importers, and wholesalers unlawful -- exceptions.** (1) (a) ~~Except as provided in subsection (3), it is~~

25 unlawful for any brewer, beer importer, or wholesaler to lease, furnish, give, or pay for any premises, furniture,

26 fixtures, equipment, or any other advertising matter or any other property to a retail licensee, used or to be used

27 in the dispensation of beer in and about the interior of the place of business of the licensed retailer, or to

28 furnish, give, or pay for any repairs, improvements, or painting on or within the premises.

(b) It is lawful for a brewer, beer importer, or wholesaler to furnish, give, or loan to a retail licensee:

(i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, glassware, cups, napkins, or other functional advertising matter that does not exceed \$300 in value in any 1 calendar year to any one retail establishment for display use within the interior of the retail establishment;

(ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture.

Any beer advertised must be available for sale on the retailer's premises at the time the displays are used unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or wholesaler, a display has been in the retailer's possession for more than 9 months.

(iii) permanent or temporary advertising matter of a decorative nature, excluding items described in subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and

(iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working condition.

(2) A wholesaler may furnish portable equipment used for the temporary cooling, handling, and dispensing of beer to a special permittee or a retailer for use:

(a) in catering an event that is off the permittee's or retailer's regular premises; or

(b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours.

(3) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is not subject to the limitations of subsection (1)(a) for the licensed brewery's retail-licensed premises."

Section 4. Section 16-3-242, MCA, is amended to read:

"16-3-242. Financial interest in retailers prohibited. (1) A brewer, beer importer, or wholesaler may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A brewer, beer importer, or wholesaler may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer importer, or wholesaler is considered to have a financial interest within the meaning of this section if:

1 ~~(1)(a)~~ the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage
2 against the retailer or the retailer's premises;
3 ~~(2)(b)~~ the brewer, beer importer, or wholesaler is under any contract with a retailer concerning future
4 purchases or the sale of merchandise by one from or to the other; or
5 ~~(3)(c)~~ any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler.
6 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
7 not subject to the limitations of this section for the licensed brewery's retail-licensed premises"
8

9 **Section 5.** Section 16-3-244, MCA, is amended to read:

10 **"16-3-244. Beer advertising limitations.** ~~It~~(1) Except as provided in subsection (2), it is lawful to
11 advertise beer, as defined and regulated, subject to the restrictions on brewers and beer importers contained in
12 16-3-241 of this code and subject to the following restrictions on retailers. A retail licensee may not display or
13 permit to be displayed on the exterior portion or surface of the retailer's place of business or on the exterior
14 portion or surface of any building of which the place of business is a part or on any premises adjacent to the
15 place of business, whether any of the premises are owned or leased by the retailer, any sign, poster, or
16 advertisement bearing the name, brand name, trade name, trademark, or other designation indicating the
17 manufacturer, brewer, beer importer, wholesaler, or place of manufacture of any beer, unless it is on a
18 marquee, board, or other space used for temporary advertisements and is not displayed for more than 10 days
19 per display period.

20 (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(10) is
21 not subject to the restrictions in subsection (1) at the colocated premises for products manufactured by the
22 licensed brewery."
23

24 **Section 6.** Section 16-3-311, MCA, is amended to read:

25 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may
26 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed
27 retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service,
28 service to underage persons, and service to persons who are actually or apparently intoxicated. Except as

1 provided in ~~subsection~~ subsections (8) and (10), the premises must be separated from the rest of the building
2 by permanent walls but may have inside access to the rest of the building at all times even if the businesses or
3 uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic
4 beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to
5 demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after
6 hours, either by the presence of a lockable door or other security features such as rolling gates, locking
7 cabinets, tap locks, or key card access.

8 (b) A resort retail all-beverages licensee or a retail all-beverages licensee within the boundaries of
9 a resort area may also utilize an alternate alcoholic beverage storage facility as allowed in 16-4-213(8).

10 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent
11 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the
12 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.
13 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved
14 alteration due to modifications required for approval by other state or local government entities, such as
15 compliance with fire or building codes, the department must be notified, but preapproval is not required for
16 these modifications. An alteration for the purposes of this section is any structural change in a premises that
17 does not increase the square footage of the existing approved premises. An alteration that increases the
18 square footage of the existing approved premises must be approved by the department prior to beginning the
19 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
20 alteration under this section.

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

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

1 impedes foot traffic.

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

3 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is
4 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its
5 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to
6 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
7 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is
8 \$100.

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

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

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

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

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

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

24 (10) For colocated premises authorized in 16-4-401(10), there are no physical separation
25 requirements applied by this code but the licensee shall follow any federal requirements."

26

27 **Section 7.** Section 16-3-411, MCA, is amended to read:

28 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

- 1 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;
- 2 (b) sell wine it produces at wholesale to wine distributors;
- 3 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off
- 4 the premises;
- 5 (d) provide, without charge, wine it produces for consumption at the winery;
- 6 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine
- 7 it produces;
- 8 (f) obtain a special event permit under 16-4-301;
- 9 (g) perform those operations and cellar treatments that are permitted for bonded winery premises
- 10 under applicable regulations of the United States department of the treasury;
- 11 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy
- 12 of the license;
- 13 (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part
- 14 11, directly to an individual in Montana who is at least 21 years of age; or
- 15 (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between
- 16 8 a.m. and 2 a.m.
- 17 (2) (a) ~~A-Except as provided in 16-4-401(10)(d), a~~ winery licensed pursuant to 16-4-107 may sell
- 18 and deliver wine produced by the winery directly to licensed retailers if the winery:
- 19 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine
- 20 delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;
- 21 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the
- 22 retailer; or
- 23 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:
- 24 (A) the wine shipped and delivered by common carrier is shipped directly from the producer's
- 25 winery or bonded warehouse;
- 26 (B) individual shipments delivered by common carrier are limited to three cases a day for each
- 27 licensed retailer; and
- 28 (C) the shipments delivered by common carrier do not exceed 4,500 cases a year.

(b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors and retailers, the shipment must be:

(i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana Licensee";

(ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good standing; and

(iii) signed for by the wine distributor or retailer or its employee or agent.

(c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, pursuant to 16-1-411, electronically file a report in the manner and form prescribed by the department, reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the names and addresses of consignees or retailers, and other information that the department may determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the requirements of this code."

Section 8. Section 16-4-311, MCA, is amended to read:

"16-4-311. Distillery license. (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312.

(2) An agricultural producer or association of agricultural producers or legal agent who manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes other than human consumption is not required to obtain a distillery license from the

1 department.

2 (3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product
3 directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees
4 to deliver the product. The amount of product delivered may not be less than a case. The department shall
5 create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency
6 liquor stores must be invoiced by the department for product received from a distillery.

7 (b) A distillery delivering its product pursuant to this subsection (3) shall maintain records of each
8 delivery, subject to inspection by the department.

9 (c) The department shall pay the distillery for any product delivered to an agency liquor store:

10 (i) the current freight rate; and

11 (ii) the distiller's current quoted price per case.

12 (d) For a licensed distillery holding complete ownership of a retail license pursuant to 16-4-
13 401(10), liquor that is manufactured and sold at the colocated premises is not subject to the limitations imposed
14 by subsection (3)(a) or the limitations and privileges of 16-4-312(3). Liquor manufactured and sold at the
15 colocated premises does count toward production levels for tax purposes."

16

17 **Section 9.** Section 16-4-401, MCA, is amended to read:

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

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

24 (a) if the applicant is an individual:

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

28 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in

1 16-1-106;

2 (iii) except as provided in subsection (10), the applicant or any member of the applicant's
3 immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of
4 alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more
5 manufacturer licenses;

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

11 (v) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
12 felony, the applicant's rights have been restored; and

13 (vi) the applicant is not under 19 years of age;

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

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

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

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

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

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

27 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
28 applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the

1 applicant shall designate two or more officers or board members, each of whom must meet the requirements
2 for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet
3 the requirements of 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);

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

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

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

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

17 (f) if the applicant is a limited liability company, all managing members and those members whose
18 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If
19 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
20 subsection (2)(a).

21 (3) In the case of a license that permits only off-premises consumption and subject to subsection
22 (8), the department shall find in every case in which it makes an order for the issuance of a new license or for
23 the approval of the transfer of a license that:

24 (a) if the applicant is an individual:

25 (i) and the application is approved, the applicant will not possess an ownership interest in more
26 than three establishments licensed under this chapter for all-beverages sales;

27 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in
28 16-1-106;

- 1 (iii) the applicant or any member of the applicant's immediate family is without financing from or
2 any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;
- 3 (iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
4 felony, the applicant's rights have been restored;
- 5 (v) 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 (3)(a)(v)
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; and
- 10 (vi) the applicant is not under 19 years of age;
- 11 (b) if the applicant is a publicly traded corporation:
- 12 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
13 listed in subsection (3)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall
14 designate two or more officers or board members, each of whom must meet the requirements for an individual
15 applicant listed in subsection (3)(a).
- 16 (ii) the corporation is authorized to do business in Montana;
- 17 (c) if the applicant is a privately held corporation:
- 18 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
19 applicant listed in subsection (3)(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 (3)(a), and the owners of 51% of the outstanding stock must meet
22 the requirements of subsection (3)(a).
- 23 (ii) the corporation is authorized to do business in Montana;
- 24 (d) if the applicant is a general partnership, each partner must meet the requirements of
25 subsection (3)(a);
- 26 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
27 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
28 requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all

1 limited partners must meet the requirements of subsection (3)(a).

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

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

9 (a) if the applicant is an individual:

10 (i) except as provided in subsection (10), the applicant has no ownership interest in any
11 establishment licensed under this chapter for retail alcoholic beverages sales;

12 (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in
13 16-1-106;

14 (iii) 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;

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

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

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

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

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

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

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

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

5 (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual
6 applicant listed in subsection (4)(a). If no single owner owns more than 15% of the outstanding stock, the
7 applicant must designate two or more officers or board members, each of whom must meet the requirements
8 for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet
9 the requirements of subsection (4)(a).

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

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

13 (d) if the applicant is a general partnership, each partner must meet the requirements of
14 subsection (4)(a);

15 (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and
16 all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the
17 requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all
18 limited partners must meet the requirements of subsection (4)(a).

19 (f) if the applicant is a limited liability company, all managing members and those members whose
20 ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (4)(a). If
21 no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of
22 subsection (4)(a).

23 (5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)
24 apply separately to each class of stock.

25 (6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant
26 to 16-4-302.

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

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

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

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

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

6 (b) has been convicted of a felony offense within 5 years of the date of application or is on
7 probation or parole or under deferred prosecution for committing a felony offense.

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

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

15 (9) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing
16 in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a
17 licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make
18 purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within
19 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000
20 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

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

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

25 (10) (a) A licensed brewery or winery may hold complete ownership of up to three retail licenses
26 issued pursuant to 16-4-104 or 16-4-201. The owner of a retail license issued pursuant to 16-4-104 or 16-4-201
27 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated
28 license.

1 **(b)** A licensed distillery may hold complete ownership of up to three retail licenses issued pursuant
2 to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of
3 distillery licenses. The first of these licenses must be a colocated license.

4 **(c)** A person who holds a license issued pursuant to 16-4-104 may not also hold a distillery
5 license.

6 **(d)** To hold both a manufacturing license and a retail license pursuant to this subsection (10), a
7 licensee:

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

10 **(ii)** must have 100% of the same ownership between the manufacturing license and the retail
11 license; and

12 **(iii)** must provide and serve through the colocated retail license alcohol produced by other
13 manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or
14 operation of the business in which the license was issued pursuant to 16-4-104 and 16-4-201, or the licensed
15 brewery, winery, or distillery.

16 **(e)** Colocated licensees may transfer beer manufactured, liquor distilled, or wine produced by the
17 licensee between the colocated manufacturing licenses and retail licenses without it being considered
18 distributed or delivered as provided in this code.

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

20 **(i)** "Colocated license" means a manufacturing license and a retail license owned completely by a
21 person and that are operated at one premises.

22 **(ii)** "Colocated premises" means a premises where a manufacturing license and a retail license are
23 both located."

24
25 **NEW SECTION. Section 10. Saving clause.** [This act] does not affect rights and duties that
26 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

27
28 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2023.

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