

SENATE BILL NO. 63

INTRODUCED BY D. ZOLNIKOV

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS; REVISING LICENSE TERMINOLOGY; REVISING LAWS RELATING TO THE MANUFACTURE OF ALCOHOLIC BEVERAGES FOR PERSONAL USE; ~~REVISING LAWS RELATING TO THE SALE OF INVENTORY FROM AN AGENCY LIQUOR STORE RESULTING FROM A BONA FIDE SALE OF THE~~ LICENSE; AND AMENDING SECTIONS 16-6-101, 16-6-104, 16-6-301, AND 16-6-304, MCA."

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

Section 1. Section 16-6-101, MCA, is amended to read:

"16-6-101. Employment of investigators and prosecuting officers. (1) The department of justice may appoint one or more investigators or prosecuting officers who, under its direction, shall perform the duties it may require.

(2) When requested by the department, the department of justice shall:

(a) investigate the character of an applicant applying for the issuance or transfer of ~~a liquor an~~ alcoholic beverage license and, if applicable, the suitability of a premises or proposed premises to be used in connection with ~~a liquor an alcoholic beverage~~ license;

(b) investigate all matters relating to the purchase, sale, importation, exportation, possession, and delivery of alcoholic beverages; and

(c) serve as a liaison to local law enforcement authorities in matters relating to alcoholic beverage law enforcement."

Section 2. Section 16-6-104, MCA, is amended to read:

"16-6-104. Unlawful alcoholic beverage -- seizure -- forfeiture. (1) An investigator or peace officer who finds an alcoholic beverage and who has reasonable cause to believe that the alcoholic beverage was

1 obtained or kept by any person in violation of the provisions of this code may seize and remove the alcoholic
2 beverage and the packages in which the alcoholic beverage is kept, and upon conviction of the person, the
3 alcoholic beverage and all packages containing the alcoholic beverages are, in addition to any other penalty
4 prescribed by this code, forfeited to the state of Montana.

5 (2) Any ~~beer or wine~~ alcoholic beverage that has been shipped into Montana in violation of this
6 code must be seized by any peace officer or representative of the department and may be confiscated in the
7 manner as provided for the confiscation of alcoholic beverages."

8
9 **Section 3.** Section 16-6-301, MCA, is amended to read:

10 **"16-6-301. Transfer, sale, and possession, and manufacture of alcoholic beverages -- when**
11 **unlawful.** (1) Except as provided by this code, a person or the person's agents or employees may not:

- 12 (a) expose or keep an alcoholic beverage for sale;
- 13 (b) directly or indirectly or upon any pretense or upon any device, sell or offer to sell an alcoholic
14 beverage; or
- 15 (c) in consideration of the purchase or transfer of any property or for any other consideration or at
16 the time of the transfer of any property, give to any other person an alcoholic beverage.
- 17 (2) A person may not have or keep any alcoholic beverage that has not been purchased within the
18 state of Montana.
- 19 (3) This code does not prohibit:
- 20 (a) a person entering this state from another state or foreign country from having in the person's
21 actual physical possession an amount not to exceed 3 gallons of alcoholic beverage that was purchased in
22 another state or foreign country;
- 23 (b) possession of beer produced for personal or family use and not intended for sale that meets
24 the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer,
25 for personal or family use, on premises other than those of the person brewing the beer;
- 26 (c) possession of beer purchased from an out-of-state brewery if the person possessing the beer
27 holds a connoisseur's license as provided for in 16-4-901 or possession of table wine purchased from a winery
28 that has a direct shipment endorsement as provided in 16-4-1101;

(d) possession of alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the manufacture of those alcoholic beverages;

(e) possession of proprietary or patent medicines or of any extracts, essences, tinctures, or preparations if the possession is authorized by this code; or

(f) possession by a sheriff or bailiff of alcoholic beverages seized under execution or other judicial or extrajudicial process or sales under executions or other judicial or extrajudicial process to the department or a licensee;

(g) possession of wine produced for personal or family use and not intended for sale that meets the exemptions of 26 U.S.C. 5042(a)(2) and regulations implementing that section, including the production of wine, for personal or family use, on premises other than those of the person producing the wine; or

(h) active service members shipping personal collections of alcoholic beverages to a military base in this state.

(4) Except as provided in this code, a person or the person's agents or employees may not:

(a) attempt to purchase any alcoholic beverage;

(b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or

(c) in consideration of the sale or transfer of any property or for any other consideration or at the time of the transfer of any property, take or accept from any other person any alcoholic beverage.

(5) The IN ACCORDANCE WITH 27 CFR 19.51, manufacturing of liquor for personal or family consumption is prohibited."

Section 4. ~~Section 16-6-303, MCA, is amended to read:~~

~~"16-6-303. Sale of liquor not purchased from agency liquor store forbidden -- penalty. It is unlawful for any licensee to sell or keep for sale or have on the licensee's premises for any purpose whatever any liquor except that purchased from an agency liquor store or purchased as part of a bona fide sale of an existing license, and any Any licensee found in possession of or selling and keeping for sale any liquor that was not purchased from an agency liquor store or as part of a bona fide sale of an existing license shall, upon conviction, be punished by a fine of not less than \$500 or more than \$1,500, by imprisonment for not less than 3 months or more than 1 year, or by both fine and imprisonment. If the department is satisfied that the liquor~~

1 was knowingly sold or kept for sale within the licensed premises by the licensee or by the licensee's agents,
2 servants, or employees, the department shall immediately revoke the license. "

3
4 **Section 4.** Section 16-6-304, MCA, is amended to read:

5 **"16-6-304. Providing alcoholic beverage to intoxicated person prohibited.** ~~(1) No store manager,~~
6 ~~retail licensee, or any employee of a store manager or retail licensee may sell any alcoholic beverage or permit~~
7 ~~any alcoholic beverage to be sold to any person apparently under the influence of an alcoholic beverage.~~

8 ~~(2) No~~ A person, including a licensee and a licensee's agents or employees, may not sell, serve, or
9 give an alcoholic beverage to a person who is apparently under the influence of alcohol."

10 - END -