

HOUSE BILL NO. 771

INTRODUCED BY E. BUTTREY, K. SEEKINS-CROWE, R. MARSHALL, G. OBLANDER, D. HARVEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOL LAWS RELATING TO SELF-SERVICE OF BEER AND WINE; PROVIDING RESTRICTIONS FOR SELF-POUR OF BEER AND WINE; ALLOWING SELF-POUR FOR ELECTRONIC DEVICES OR OTHER TECHNOLOGY-BASED DEVICES; PROVIDING EXEMPTIONS TO THE TERM "SELF-SERVICE"; PROVIDING FOR ALCOHOL LICENSEE SUPERVISION OF SELF-POUR; AND AMENDING SECTION 16-3-311, MCA."

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

**Section 2.** Section 16-3-311, MCA, is amended to read:

**"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are actually or apparently intoxicated. Except as provided in subsection (8), the premises must be separated from the rest of the building by permanent walls but may have inside access to the rest of the building at all times even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. For the purposes of this subsection (1)(a), the term "self-service" does not include when customers self-pour beer and wine after an on-premises licensee, including the licensee's employees, concessionaire, or concessionaire's employees, has provided alcohol, including:

(i) large containers of beer or wine, such as pitchers, buckets, or bottles, but not including liquor;

or

(ii) if approved by the department, electronic devices or other technology-based devices with

predetermined limits used to measure and supply customers with a predetermined volume of beer or wine if the electronic device or other technology-based device is monitored by the licensee, the licensee's employees, the concessionaire, or the concessionaire's employees to ensure that people are not overserved.

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

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

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

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

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

(6) A licensed retailer may apply to the department to have a noncontiguous storage area that is under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its

1 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to  
2 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other  
3 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is  
4 \$100.

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

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

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

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

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

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

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