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HOUSE BILL NO. 68

INTRODUCED BY G. NIKOLAKAKOS

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO THE SALE OF BEER AND WINE LICENSES; CREATING RETAIL BEER AND WINE LICENSES BY COMBINING RETAIL BEER LICENSES WITH WINE AMENDMENTS; ELIMINATING WINE AMENDMENTS; REVISING ANNUAL FEES; REVISING GOLF COURSE BEER AND WINE LICENSES; AMENDING SECTIONS 16-4-105, 16-4-109, 16-4-110, 16-4-111, 16-4-305, 16-4-306, 16-4-420, AND 16-4-501, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 16-4-105, MCA, is amended to read:

"16-4-105. Limit on retail beer and wine licenses -- wine license amendments -- limitation on use of license -- exceptions -- competitive bidding -- rulemaking. (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer and wine licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than one retail beer and wine license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities or towns, one retail beer and wine license for every 500 inhabitants;

(iii) in incorporated cities of more than 2,000 inhabitants and within 5 miles of the corporate limits of

1 conducted.

2 (9) An applicant for a license issued through a competitive bidding process in 16-4-430 shall pay a
3 \$25,000 new license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

4 (10) The department may adopt rules to implement this section."
5

6 **Section 2.** Section 16-4-109, MCA, is amended to read:

7 **"16-4-109. Golf course beer and wine license.** (1) ~~Upon~~On application, the department ~~of revenue~~
8 shall issue a retail beer and wine license, to be known as a golf course beer and wine license, for use at a golf
9 course. ~~If the owner of the golf course is not the state, a unit of the university system, or a local government, to~~
10 ~~qualify for a license under this section:~~

11 ~~(a) (i) the golf course must consist of at least 9 holes and 2,500 lineal yards;~~

12 ~~(ii) the golf course must be either within the limits of an incorporated city or town or within 5 miles of~~
13 ~~the limits of an incorporated city or town;~~

14 ~~(iii) the applicant for a license under this section may not have held a beer and wine or all beverages~~
15 ~~license within 12 months of the date of application; and~~

16 ~~(iv) the applicant shall pay an initial application fee of \$20,000; or~~

17 ~~(b) (i) the golf course must consist of at least 9 holes and 2,500 lineal yards;~~

18 ~~(ii) the governing body of the golf course must be incorporated under section 501(c)(3) of the Internal~~
19 ~~Revenue Code;~~

20 ~~(iii) the golf course must be within 5 miles of the limits of an incorporated city or town; and~~

21 ~~(iv) the applicant for a license under this section may not have held a beer and wine or all beverages~~
22 ~~license within 12 months of the date of application.~~

23 ~~(2) The application must be made by the person or entity that owns and operates the golf course. If~~
24 ~~the owner of the golf course is not the state, a unit of the university system, or a local government, the owner~~
25 ~~must be approved by the department as provided in this chapter for the issuance of beer licenses.~~

26 ~~(3)(2) The department shall issue a golf course beer and wine license to a qualified applicant~~
27 ~~regardless of the number of beer and wine licenses already issued within the beer and wine license quota area~~
28 ~~in which the golf course is situated. A license issued pursuant to this section is nontransferable.~~

1 (3) If the owner of the golf course is not the state, a unit of the university system, or a local
2 government, the owner must be approved by the department as provided in this chapter for the issuance of
3 retail beer and wine licenses and:

4 (a) the golf course must consist of at least 9 holes and 2,500 lineal yards;

5 (b) the golf course must be either within the limits of an incorporated city or town or within 5 miles
6 of the limits of an incorporated city or town;

7 (c) the applicant for a license under this section may not have held a retail beer and wine or all-
8 beverages license within 12 months of the date of application; and

9 (d) the applicant, except for a golf course under a governing body incorporated under section
10 501(c)(3) of the Internal Revenue Code, shall pay an initial application fee as provided in 16-4-501.

11 (4) If the owner of the golf course is the state, a unit of the university system, or a local
12 government, the department may approve the application if an owner-designated individual who provides
13 general oversight of the alcoholic beverage operations meets the requirements of 16-4-401(2)(a)(iv) through
14 (2)(a)(vi).

15 (5) (a) Except as provided in subsection (3)(c) (5)(c), a golf course beer and wine license and all
16 retail beer and wine sales under the license are subject to all statutes and rules governing a retail beer and
17 wine license with a wine license amendment.

18 (b) If the owner of the golf course is not the state, a unit of the university system, or a local
19 government:

20 (i) retail beer and wine sales may be made only during the time of the year that the golf course is
21 open for business, and sales on days during that time must stop by 1 hour after sunset;

22 (ii) the seating capacity of the premises where the beer and wine are sold may not exceed 75
23 persons; and

24 (iii) gaming or gambling is not authorized under the license issued under this section.

25 (c) If the owner of a golf course is the state, a unit of the university system, or a local government,
26 the owner may lease the beer and wine license for use at the golf course to an individual or entity approved by
27 the department ~~of revenue.~~

28 (4) ~~The department of revenue shall issue a golf course beer and wine license to a qualified applicant~~

1 regardless of the number of beer and wine licenses already issued within the beer and wine license quota area
2 in which the golf course is situated. A license issued pursuant to this section is nontransferable."

3

4 **Section 3.** Section 16-4-110, MCA, is amended to read:

5 **"16-4-110. Beer and wine license for tribal alcoholic beverages licensee or enlisted personnel,**
6 **noncommissioned officers', or officers' club.** (1) ~~Upon~~On application and qualification, the department shall
7 issue a license to sell beer and wine for consumption on the premises to:

8 (a) a tribal alcoholic beverages licensee who operates the business within the exterior boundaries
9 of a Montana Indian reservation under a tribal license issued prior to January 1, 1985;

10 (b) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal
11 military reservation in Montana on May 13, 1985.

12 (2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of
13 16-4-105.

14 (3) ~~Upon~~On application and approval by the department, a license issued under subsection (1)(a)
15 may be transferred to another qualified applicant, but only to a location within the quota area and the exterior
16 boundaries of the Montana Indian reservation for which the license was originally issued.

17 (4) A license issued under this section is subject to all statutes and rules governing licenses to sell
18 beer and wine at retail for on-premises consumption.

19 (5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in
20 original packaging, prepared servings, or growlers."

21

22 **Section 4.** Section 16-4-111, MCA, is amended to read:

23 **"16-4-111. Catering endorsement for beer and wine licensees.** (1) (a) A person who is engaged
24 primarily in the business of providing meals with table service and who is licensed to sell ~~beer at retail or beer~~
25 and wine at retail for on-premises consumption may, ~~upon~~on the approval of the department, be granted a
26 catering endorsement to the license to allow the catering and sale of ~~beer or~~ beer and wine to persons
27 attending a special event ~~upon~~on premises not otherwise licensed for the sale of ~~beer or~~ beer and wine for on-
28 premises consumption. The beer or wine must be consumed on the premises where the event is held.

1 of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period
2 that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If
3 the department denies an application, the application fee, plus any interest, less a processing fee established
4 by rule, must be refunded to the applicant. ~~Upon~~On the issuance of a license, the licensee shall pay the
5 balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the
6 following schedule:

7 (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or fewer;

8 (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

9 (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

10 (15) The annual fee for a restaurant beer and wine license is \$400.

11 (16) If a restaurant licensed under this part increases the stated seating capacity of the licensed
12 restaurant or if the department determines that a licensee has increased the stated seating capacity of the
13 licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the
14 time of filing the original application and issuance of a license and the applicable fees for the additional seating.

15 (17) The number of beer and wine licenses issued to restaurants with a stated seating capacity of
16 101 persons or more may not exceed 25% of the total licenses issued.

17 (18) Possession of a restaurant beer and wine license is not a qualification for licensure of any
18 gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a
19 restaurant beer and wine license.

20 (19) The department may adopt rules to implement this section."

21

22 **Section 8.** Section 16-4-501, MCA, is amended to read:

23 **"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table wine
24 only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise
25 specified in this section, the fee is an annual fee and is imposed as follows:

26 (a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for
27 sale within the state, \$500;

28 (ii) for each storage depot, \$400;

Amendment - 1st Reading-white - Requested by: Jonathan Karlen - (H) Business and Labor

68th Legislature

Drafter: Jameson Walker, 406-444-3722

HB0068.001.001

- 1 (b) (i) each beer wholesaler, \$400; each winery, \$200; each table wine distributor, \$400;
- 2 (ii) for each subwarehouse, \$400;
- 3 (c) each beer and wine retailer, ~~\$200~~ \$400;
- 4 (d) (i) for a license to sell beer at retail for off-premises consumption only, ~~the same as a retail beer~~
- 5 ~~license~~ \$200;
- 6 (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in
- 7 conjunction with beer, \$200;
- 8 (e) any unit of a nationally chartered veterans' organization, \$50.
- 9 (2) The permit fee under 16-4-301(1) is computed at the following rate:
- 10 (a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting
- 11 contests, other than those applied for pursuant to 16-4-301(1)(c); and
- 12 (b) \$1,000 a season for professional sporting contests or junior hockey contests held under the
- 13 provisions of 16-4-301(1)(c).
- 14 (3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the
- 15 sale of all alcoholic beverages.
- 16 (4) Passenger carrier licenses must be issued ~~upon~~ on payment by the applicant of an annual
- 17 license fee in the sum of \$300.
- 18 ~~(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment~~
- 19 ~~to a beer-only license pursuant to 16-4-105, is \$200.~~
- 20 ~~(6)~~(5) The annual renewal fee for:
- 21 (a) a brewer producing 10,000 or fewer barrels of beer, as defined in 16-1-406, is \$200;
- 22 (b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license; and
- 23 (c) a continuing care retirement community limited all-beverages license is \$500 for each license.
- 24 ~~(7)~~(6) Except as provided in this section, each licensee licensed under the quotas of 16-4-201 shall
- 25 pay an annual license fee as follows:
- 26 (a) for each license outside of incorporated cities and incorporated towns or in incorporated cities
- 27 and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans'
- 28 organization and \$400 for all other licensees;

1 (b) for each license in incorporated cities with a population of more than 2,000 and less than 5,000
2 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be
3 licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and
4 \$500 for all other licensees;

5 (c) for each license in incorporated cities with a population of more than 5,000 and less than
6 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to
7 be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization
8 and \$650 for all other licensees;

9 (d) for each license in incorporated cities with a population of 10,000 or more or within a distance
10 of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest
11 boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other
12 licensees;

13 (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated
14 towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest
15 boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles
16 of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations,
17 the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the
18 applicant. When the premises of the applicant to be licensed are situated within an incorporated town or
19 incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the
20 license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the
21 applicant.

22 (f) an applicant for the issuance of a resort retail all-beverages license shall pay a \$100,000
23 license fee on issuance of the license. The resort retail all-beverages license may be transferred to another
24 location within the boundaries of the resort area or to another owner to be used at a location within the
25 boundaries of the resort area.

26 ~~(8)(7)~~ The fee for one all-beverages license to a public airport is \$800. This license is
27 nontransferable.

28 ~~(9)(8)~~ The annual fee for a retail beer and wine license to the Yellowstone airport is \$400.

1 ~~(10)(9)~~ The annual fee for a special beer and table wine license for a nonprofit arts organization under
2 16-4-303 is \$250.

3 ~~(11)(10)~~— ____ The annual fee for a distillery is \$600.

4 ~~(12)(11)~~— ____ The license fees provided in this section are exclusive of and in addition to other
5 license fees chargeable in Montana for the sale of alcoholic beverages.

6 ~~(13)(12)~~— ____ In addition to other license fees, the department ~~of revenue~~ may require a licensee to
7 pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the
8 licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year
9 and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of
10 the renewal year or 1 year and 2 months after the licensee's anniversary date.

11 ~~(14)(13)~~— ____ All license and permit fees collected under this section must be deposited as provided
12 in 16-2-108."

13

14 NEW SECTION. Section 9. Transition. The department of revenue shall reclassify existing retail
15 beer licenses to retail beer and wine licenses pursuant to [section 1] after June 30, 2024, during the existing
16 license's renewal.

17

18 NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 2024.

19

- END -