

HOUSE BILL NO. 95

INTRODUCED BY E. BUTTREY

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS; REVISING WHOLESALER LAWS; REVISING REQUIREMENTS BY THE DEPARTMENT OF REVENUE; REMOVING REFERENCES TO MALT LIQUORS; REVISING LAWS RELATING TO THE CONVEYANCE OF ALCOHOLIC BEVERAGES; REVISING LAWS RELATING TO PAYMENT BY RETAIL LICENSEES TO BREWERS, BEER IMPORTERS, OR WHOLESALERS; UPDATING LANGUAGE RELATING TO REFILLING LIQUOR BOTTLES; REVISING LAWS RELATING TO RAFFLES OR AUCTIONS; REVISING LAWS RELATING TO REFERENCING APPLICABLE FEDERAL LAWS; REVISING LAWS RELATING TO SHIPMENTS BY COMMON CARRIERS; REVISING LAWS RELATING TO TABLE WINE; AMENDING SECTIONS 16-3-101, 16-3-103, 16-3-104, 16-3-106, 16-3-230, 16-3-233, 16-3-243, 16-3-301, 16-3-306, 16-3-308, 16-3-316, 16-3-401, 16-3-411, AND 16-6-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 16-3-101, MCA, is amended to read:

**"16-3-101. Alcoholic beverage transactions -- only in accordance with code.** (1) A person who manufactures, imports, distributes, wholesales, or sells alcoholic beverages or the person's agent may not give or sell to any person within the state any alcoholic beverage except as may be permitted by and in accordance with the provisions of this code.

(2) (a) Except as otherwise provided by this code, a person or the person's agent may not ship, transport, or consign or cause to be shipped, transported, or consigned:

(i) any alcoholic beverage to any person in this state ~~who does not hold a valid wholesaler's license or connoisseur's license issued by the department;~~ or

(ii) any liquor except to the state liquor warehouse.

1    ~~revoked, as determined by the department in its discretion who violate this section are subject to the penalty~~  
2    ~~provisions of 16-4-406."~~

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

5            **"16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age. (1) #**

6    Except as allowed in 16-4-213(8), it is unlawful for a licensed retailer to:

7            (a) purchase or acquire beer or wine from anyone except a brewery, winery, or wholesaler  
8    licensed under the provisions of this code except as allowed in 16-4-213 (8);

9            (b) purchase or acquire table wine from anyone except a liquor store agent or winery or table wine  
10 distributor licensed under the provisions of this code;

11           (c) purchase or acquire wine from anyone except a liquor store agent or winery;

12           ~~(2)(d) It is unlawful for a licensed retailer to transport beer or wine alcoholic beverages from one~~  
13 ~~licensed premises or other facility to any other licensed premises owned by the licensee except as allowed in~~  
14 ~~16-4-213 (8); or~~

15           ~~(3)(e) It is unlawful for a licensed retailer to purchase or acquire liquor from anyone except an agency~~  
16 ~~liquor store except as allowed in 16-4-213 (8).~~

17           ~~(4)(2) It is unlawful for a licensed distributor or wholesaler to purchase beer, table wine, or wine from~~  
18 ~~anyone except a brewery, winery, or wholesaler licensed or registered under this code.~~

19           (3) It is unlawful for a liquor store agent to purchase beer, table wine, or sacramental wine from  
20 anyone except a table wine distributor licensed under this code.

21           ~~(5)(4) It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or~~  
22 ~~give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:~~

23           (a) any person under 21 years of age; or

24           (b) any person actually, apparently, or obviously intoxicated.

25           ~~(6)(5) Any person under 21 years of age or any other person who knowingly misrepresents the~~  
26 ~~person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with~~  
27 ~~the licensee and, upon on conviction, is subject to the penalty provided in 45-5-624. However, nothing in this~~  
28 ~~section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in~~

1 violation of any federal law.

2 ~~(7)~~(6) All licensees shall display in a prominent place in their premises a placard, issued by the  
3 department, stating fully the consequences for violations of the provisions of this code by persons under 21  
4 years of age.

5 ~~(8)~~(7) For purposes of 45-5-623 and this title, the establishment of the following facts by a person  
6 making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of  
7 innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

8 (a) the purchaser falsely represented and supported with documentary evidence that an ordinary  
9 and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages;

10 (b) the appearance of the purchaser was such that an ordinary and prudent person would believe  
11 the purchaser to be of legal age to purchase alcoholic beverages; and

12 (c) the sale was made in good faith and in reasonable reliance upon on the representation and  
13 appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages. (See  
14 compiler's comments for contingent termination of certain text.)"

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16 **Section 9.** Section 16-3-306, MCA, is amended to read:

17 **"16-3-306. Proximity to churches and schools restricted.** (1) Except as provided in subsections (2)  
18 through (4), a retail license may not be issued pursuant to this code to any business or enterprise whose  
19 premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue,  
20 or other place of worship or as a school other than a commercially operated or postsecondary school. This  
21 distance must be measured in a straight line from the center of the nearest entrance of the place of worship or  
22 school to the nearest entrance of the licensee's premises. This section is a limitation upon on the department's  
23 licensing authority.

24 (2) ~~However, the~~The department may renew a license, approve the transfer of ownership of a  
25 license, or allow the current licensee to apply for a new license type for any establishment located in violation of  
26 this section if the licensee does not relocate an entrance any closer than the existing entrances and if the  
27 establishment:

28 (a) was located on the site before the place of worship or school opened; or