

1 HOUSE BILL NO. 95
2 INTRODUCED BY E. BUTTREY
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS;
6 REVISING WHOLESALER LAWS; REVISING REQUIREMENTS BY THE DEPARTMENT OF REVENUE;
7 REMOVING REFERENCES TO MALT LIQUORS; REVISING LAWS RELATING TO THE CONVEYANCE OF
8 ALCOHOLIC BEVERAGES; REVISING LAWS RELATING TO PAYMENT BY RETAIL LICENSEES TO
9 BREWERS, BEER IMPORTERS, OR WHOLESALERS; UPDATING LANGUAGE RELATING TO REFILLING
10 LIQUOR BOTTLES; REVISING LAWS RELATING TO RAFFLES OR AUCTIONS; REVISING LAWS
11 RELATING TO REFERENCING APPLICABLE FEDERAL LAWS; REVISING LAWS RELATING TO
12 SHIPMENTS BY COMMON CARRIERS; REVISING LAWS RELATING TO TABLE WINE; AMENDING
13 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-
14 308, 16-3-316, 16-3-401, 16-3-411, AND 16-6-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
15 DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18

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

20 **"16-3-101. Alcoholic beverage transactions -- only in accordance with code.** (1) A person who
21 manufactures, imports, distributes, wholesales, or sells alcoholic beverages or the person's agent may not give
22 or sell to any person within the state any alcoholic beverage except as may be permitted by and in accordance
23 with the provisions of this code.

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

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

Amendment - 1st Reading/2nd House-blue - Requested by: Mark Noland - (S) Business, Labor, and Economic Affairs

- 2023

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Drafter: Erin Sullivan, 406-444-3594

HB0095.002.001

1 **Section 11.** Section 16-3-316, MCA, is amended to read:

2 **"16-3-316. Fundraising events for nonprofit and tax-exempt organizations.** (1) A nonprofit
3 organization governed under Title 35, chapter 2, or an organization designated as tax-exempt under the
4 provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended, may raffle or auction
5 alcoholic beverages at fundraising events. Any alcoholic beverage raffled or auctioned must be given by the
6 organization to the raffle or auction winner sealed in its original package.

7 (2) If the fundraising event is held on the premises of a business licensed under this code or on
8 premises for which a permit has been issued under this code, the alcoholic beverage may not be consumed on
9 the premises. An alcoholic beverage that is on a licensee's premises solely for a fundraising event under this
10 section does not constitute a violation by the licensee of 16-3-301(1)(a) or 16-6-303.

11 (3) A nonprofit or tax-exempt organization may hold no more than four events per calendar year at
12 which alcoholic beverages are raffled or auctioned. The duration of each event must be announced at the time
13 any raffle tickets are sold or auction bids are received. Raffles and auctions held pursuant to this section must
14 be to directly support bona fide charitable, nonprofit, or tax-exempt activities.

15 (4) An alcoholic beverage for raffle or auction must be:

16 (a) acquired, whether by purchase or donation, by the organization from a retailer or manufacturer
17 licensed under the provisions of this code, ~~excluding a restaurant beer and wine licensee;~~

18 (b) ~~purchased~~ acquired by the organization, whether by purchase at not less than the posted price
19 or by donation, by the organization from an agency liquor store ~~at not less than the posted price;~~ or

20 (c) received by the organization as a donation at no cost to the organization from any other person
21 ~~except one licensed as a wholesaler or distributor under this code.~~

22 (5) No proceeds from the raffle or auction of alcoholic beverages may go to anyone who provided
23 the alcoholic beverages to the organization for the raffle or auction.

24 (6) For a raffle or auction described in subsection (1), raffle tickets may not be sold to, and auction
25 bids may not be solicited or received from, any person under 21 years of age. The organization raffling or
26 auctioning alcoholic beverages may not sell, deliver, or give away any alcoholic beverage to a person under 21
27 years of age or to any person actually, apparently, or obviously intoxicated.

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1 (7) As used in this section:

2 (a) "auction" means the sale of an item or items, which may include alcoholic beverages, whereby
3 the item for sale is sold to the highest bidder at the bid price. An auctioned item or items may have a reserve
4 price.

5 (b) "raffle" means an event in which a nonprofit or tax-exempt organization sells tickets and each
6 ticket gives the purchaser of the ticket the chance to win a prize, which may include alcoholic beverages, with
7 the winner determined by a random drawing."
8

9 **Section 12.** Section 16-3-401, MCA, is amended to read:

10 **"16-3-401. Short title -- public policy -- purpose.** (1) This part may be cited as the "Wine
11 Distribution Act".

12 (2) The public policy of the state of Montana is to maintain a system to provide for, regulate, and
13 control the acquisition, importation, and distribution of table wine.

14 (3) This part governs wineries, table wine distributors, and wine retailers.

15 (4) This code does not prohibit the manufacture of wine, for personal or family use and not
16 intended for sale, that meets the exemptions of 26 U.S.C. 5042(a)(2) and regulations implementing that section,
17 including the making of wine, for personal or family use, on premises other than those of the person making the
18 wine."

19
20 **Section 13.** Section 16-3-411, MCA, is amended to read:

21 **"16-3-411. Winery.** (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

22 (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

23 (b) sell table wine it produces at wholesale to table wine distributors;

24 (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off
25 the premises;

26 (d) provide, without charge, wine it produces for consumption at the winery;

27 (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine

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1 it produces;

2 (f) obtain ~~a no more than~~ three-twelve special event ~~permit-permits~~ under 16-4-301;

3 (g) perform those operations and cellar treatments that are permitted for bonded winery premises
4 under applicable regulations of the United States department of the treasury;

5 (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy
6 of the license;

7 (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part
8 11, directly to an individual in Montana who is at least 21 years of age; or

9 (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between
10 8 a.m. and 2 a.m.

11 (2) (a) A winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery
12 directly to licensed retailers if the winery:

13 (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine
14 delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 9-liter cases a year;

15 (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the
16 retailer; or

17 (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:

18 (A) the wine shipped and delivered by common carrier is shipped directly from the producer's
19 winery or bonded warehouse;

20 (B) individual shipments delivered by common carrier are limited to three cases a day for each
21 licensed retailer; and

22 (C) the shipments delivered by common carrier do not exceed 4,500 9-liter cases a year.

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

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

27 (ii) delivered to the premises of a licensed table wine distributor or licensed retailer ~~who is in good~~

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1 ~~standing~~; and

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

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

10

11 **Section 14.** Section 16-6-314, MCA, is amended to read:

12 **"16-6-314. Penalty for violating code -- revocation of license -- penalty for violation by**

13 **underage person.** (1) A person who violates a provision of this code is guilty of a misdemeanor punishable as
14 provided in 46-18-212, except as otherwise provided in this section.

15 (2) If a retail licensee is convicted of an offense under this code, the licensee's license must be
16 immediately revoked or, in the discretion of the department, another sanction must be imposed as provided
17 under 16-4-406.

18 (3) A person under 21 years of age who violates 16-3-301~~(5)~~(4) or 16-6-305(3) is subject to the
19 penalty provided in 45-5-624(2) or (3). (See compiler's comments for contingent termination of certain text.)"

20

21 NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval.

22

- END -