

HOUSE BILL NO. 882

INTRODUCED BY E. BUTTREY, E. ALBUS, C. SCHOMER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOL LAWS; REVISING LAWS RELATING TO SALES BY CERTAIN LICENSEES IN ADDITIONAL STRUCTURES OR BUILDINGS; PROVIDING A FEE; REVISING LAWS RELATING TO THE SALES OF ALCOHOLIC BEVERAGES BY ENTITIES; AMENDING SECTIONS 16-3-302, 16-3-311, 16-4-213, AND 16-6-303, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 16-3-302, MCA, is amended to read:

"16-3-302. Sale by retailer for consumption on premises -- fees. (1) It is lawful for a licensed retailer to sell and serve beer, either on draft or in containers, to the public to be consumed on the premises of the retailer.

(2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under 16-4-109 to sell beer and wine:

(a) in the building or other structural premises constituting the clubhouse or primary indoor recreational quarters of the golf course;

(b) upon department approval and submission of a fee, in an additional building or other structure, one per 9 holes of the golf course, that is designed to serve golfers during the course of play; and

(c) at any place within the boundaries of the golf course, from a portable satellite vehicle or other movable satellite device that is moved from place to place.

(3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place within the boundaries of the golf course, whether inside or outside of a building or other structure.

(4) (a) It is lawful for a licensee who has an all-beverages license or a resort area all-beverages license to sell alcoholic beverages:

(i) ~~if the licensee's premises include a hotel or other short-term lodging facility AND ARE NOT~~
~~LOCATED WITHIN THE BOUNDARIES OF A INCORPORATED CITY OR INCORPORATED TOWN QUOTA AREA, in up to two~~
~~licensed alcohol service structures separate from the main licensed premises within the exterior boundaries of~~
~~the same property that are owned, leased, or otherwise under the control and operated by the same property~~
~~owner, licensee, and if applicable, concessionaire;~~

~~(i) in the building or other structural premises constituting the primary indoor lodging quarters of a~~
~~hotel or other short-term lodging facility;~~

(ii) if the licensee's premises include a swimming pool, in a permanent, licensed alcohol service
structure in the swimming pool area separate from the main licensed premises;

(iii) if the licensee's premises include a ski hill, in up to two permanent, licensed alcohol service
structures separate from the main licensed premises within the exterior boundaries of the same premises that
are owned, leased, or otherwise under the control of and operated by the same property owner, licensee, and if
applicable, concessionaire;

(iv) if the licensee's premises include a golf course, the premises in addition to the main licensed
premises may include:

(A) the building or alcohol service structure constituting the clubhouse or primary recreational
quarters of the golf course that is separate from the main licensed premises; and

(B) the outdoor area within the boundaries of the golf course.

(b) Buildings or structural premises allowed under this subsection (4) may be separate from the
building comprising the main licensed premises but must otherwise meet the premises suitability requirements
of 16-3-311. The licensee shall pay an application fee of \$100 for each area allowed under this subsection (4).

~~(5) It is lawful for a licensee who has an on-premises consumption license that is operated within a~~
~~resort area as defined in 16-4-212 to allow the on-premises consumption of alcoholic beverages not sold or~~
~~provided at the licensed premises if those alcoholic beverages are sold or provided by another on-premises~~
~~licensee authorized to sell the same type of alcoholic beverages within the same resort area.~~

~~(5)(6)~~ (a) It is lawful for a licensee who has an all-beverages license or has a retail license issued
under 16-4-105 to sell and serve alcoholic beverages for which the licensee is licensed at a guest ranch as
defined in 16-1-106. The guest ranch must be owned by the licensee or by a concessionaire with which the

licensee has a concession agreement under 16-4-418. For a license operated at a guest ranch, alcoholic beverages may be served anytime within the outdoor portions of the licensed premises and in ~~one or more~~ UP TO THREE permanent ~~building~~ buildings at any time during the hours allowed under 16-3-304.

(b) An applicant or licensee desiring to operate a license as described in this subsection ~~(5)~~ (6) shall submit to the department a premises floorplan that describes the premises as a guest ranch and depicts both the indoor and outdoor portions of the premises. The floorplan of the licensed premises and each additional building must be submitted to the department as part of a license application or as part of a premises alteration request as described in 16-3-311(2). The license application or premises alteration request must be accompanied by a fee of \$100 for each additional building.

(c) A license operated at a guest ranch is subject to the requirements that are applicable to retail licenses generally, including the premises suitability provisions of 16-3-311, except that:

(i) the premises may include any number of temporary, mobile, or partial structures, including but not limited to tents, teepees, yurts, picnic shelters, recreational vehicles, wagons, trailers, or any other structures that are not permanent buildings, provided that all temporary, mobile, or partial structures may not be used for alcohol storage purposes unless approved by the department, and may only be used for alcohol service and consumption if they remain within the licensee's approved outdoor premises area;

(ii) the premises may include any outdoor areas in which the licensee or concessionaire has possessory interest, which may be demonstrated by property ownership records, a lease agreement, a concession agreement, or other evidence of possessory interest acceptable to the department;

(iii) the premises may be separated by roadways, waterways, natural barriers, or fence lines if the premises are otherwise contiguous;

(iv) a perimeter barrier is not required if the property line is otherwise marked; and

(v) the premises may be identified on the license by legal description rather than by building address.

(d) For the purposes of this subsection ~~(5)~~ (6), the term "permanent building" means a fixed, nonmobile structure with floor-to-ceiling exterior walls, a full roof, electrical wiring, and plumbing fixtures."

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

1 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may
2 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages, except as
3 otherwise allowed in 16-3-302(4). The licensed retailer must demonstrate that it has adequate control over all
4 alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are
5 actually or apparently intoxicated. Except as provided in subsections (8), (10), and (11), the premises must be
6 separated from the rest of the building by permanent walls but may have inside access to the rest of the
7 building at all times even if the businesses or uses in the other part of the building are unrelated to the
8 operation of the premises in which the alcoholic beverages are served. A licensee may lease the kitchen or
9 another specified area to allow another business entity to operate a business within its premises without
10 permanent floor-to-ceiling walls and without a concession agreement if the other business does not take orders
11 for, serve, or deliver alcohol and has a separate point of sale system. If the premises are located in a portion of
12 a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to
13 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
14 security features such as rolling gates, locking cabinets, tap locks, or key card access.

15 (b) A resort retail all-beverages licensee, a retail all-beverages licensee, or an on-premises
16 consumption beer and wine licensee within the boundaries of a resort area may also utilize up to three alternate
17 alcoholic beverage storage facilities as allowed in 16-4-213(8).

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

1 inspections by local government agencies may not be required for department approval.

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

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

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

12 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is
13 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its
14 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to
15 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
16 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is
17 \$100. On department approval, an on-premises consumption retailer's keg storage and beer lines running into
18 the licensed premises may be in a noncontiguous storage area provided that the licensee is able to maintain
19 control and adequate safeguards are in place to prevent public access.

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

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

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

28 (i) the premises of the retailer and the premises of the brewery or winery are secured after

business hours from each other and from any other business, including but not limited to prohibiting a customer from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of operation as specified in 16-3-213(2)(b); and

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

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

(10) For colocated premises authorized in 16-4-401(9), there are no physical separation requirements applied by this code but the licensee shall follow any federal requirements.

(11) A public airport all-beverages licensee, licensed pursuant to 16-4-208, or the Yellowstone airport beer and wine licensee, licensed pursuant to 16-4-304, may use the airport terminal or part of the terminal as premises licensed for the on-premises consumption of alcoholic beverages without regard to other businesses or uses in the terminal. The airport licensee 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."

Section 3. Section 16-4-213, MCA, is amended to read:

"16-4-213. Resort retail all-beverages licenses. (1) After a resort area has been approved, applications may be filed with the department for the issuance of resort retail all-beverages licenses within the resort area.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), the department may issue one resort retail all-beverages license for the first 100 accommodation units and an additional license for each additional 50 accommodation units within an approved resort area as long as the recreational facilities under 16-4-212 have also been completed.

(b) (i) For a resort area with a perimeter containing at least 500 contiguous acres that has a current actual valuation of completed recreational facilities, including land and improvements, of not less than \$20 million, the department may issue up to 10 resort retail all-beverages licenses regardless of the number of accommodation units.

(ii) For a resort area with a perimeter containing at least 2,000 contiguous acres that has a current

actual valuation of completed recreational facilities, including land and improvements, of not less than \$40 million, the department may issue up to 25 resort retail all-beverages licenses regardless of the number of accommodation units.

(c) A resort area designation application to the department that received approval prior to January 1, 1999, is entitled to the issuance of one resort retail all-beverages license for a \$20,000 license fee. Any additional resort retail all-beverages licenses issued to a resort area under this subsection (2)(c) must meet the accommodation unit requirement in subsection (2)(a) of this section and pay the license fee and renewal fees as provided in 16-4-501.

(d) (i) For purposes of this code, "accommodation unit" means a unit that is available for short-term guest rental and includes:

(A) a single-family home;

(B) a single unit of an apartment, condominium, or multiplex;

(C) a single room of a hotel or motel; or

(D) similar living space. A space under this subsection (2)(d)(i)(D) must be distinctly separated from other living spaces within the building and have its own sleeping, bath, and toilet facilities.

(ii) In order to qualify toward the required total for the purposes of subsection (2)(a), accommodation units may not be located within the boundaries of a quota area as provided in 16-4-201(1) or (2) as of the date of submission for a resort retail all-beverages license.

(3) Regardless of how many resort area all-beverages licenses are issued in a resort area, no more than 20 gambling machine permits may be issued for the resort area.

(4) A resort retail all-beverages license within the resort area:

(a) is subject to all other requirements of an all-beverages license in this code, except:

(i) for the purposes of premises suitability under 16-3-311, a licensed retailer may use a part of the building as a licensed premises for the consumption of alcoholic beverages on the premises. 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 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

1 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
2 security features such as rolling gates, locking cabinets, tap locks, or key card access;

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

8 (iii) the on-premises consumption of alcoholic beverages not sold or provided at the premises is
9 allowed if those alcoholic beverages were sold or provided by another on-premises licensee authorized to sell
10 the same type of alcoholic beverages within the same resort area; and

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

15 (b) is not subject to the quota limitations set forth in 16-4-201; and

16 (c) is transferable to another location within the boundaries of the resort area or to another owner
17 to be used at a location within the boundaries of the resort area.

18 (5) For licenses issued under this section, a licensee may apply to the department to allow for the
19 delivery of alcohol to guests of accommodation units and the prestocking of alcoholic beverages in
20 accommodation units within the designated resort area property as long as the purchaser's age is verified. The
21 application fee is \$100.

22 (6) Employees of the resort licensee who sell, serve, or deliver alcohol must be trained as provided
23 in 16-4-1005.

24 (7) A resort retail all-beverages licensee whose premises is located outside of a quota area as
25 defined in 16-4-201(1) or (2) may enter into a maximum of one concession agreement per license with an
26 unlicensed entity to serve alcoholic beverages. Except for 16-4-418(1), the provisions of 16-4-418 apply.

27 (8) If a resort area has two or more resort retail all-beverage licenses or retail all-beverages
28 licenses within the boundaries of the resort, the licensees may also apply to use a resort alternate alcoholic

1 beverage storage facility to be located within the resort area. The application fee is \$100. The alternate storage
2 facility will be considered part of each licensee's existing licensed premises, though it does not need to be
3 contiguous to qualify for approval. The licensees using the alternate storage facility must meet all requirements
4 to ensure the secure storage of alcoholic beverages and prevent on-site consumption of alcoholic beverages.
5 Alcoholic beverages in sealed containers belonging to multiple licensees within the resort area may be stored in
6 the same storage facility. A resort retail licensee or retail licensee who is approved to use the alternate storage
7 facility may accept delivery of alcoholic beverages at the alternate storage facility and may transfer alcoholic
8 beverages to another licensee approved to use the alternate storage facility. Any transfer of alcoholic
9 beverages between approved licensees must be properly accounted for. Approval to use the alternate storage
10 facility must be documented on the face of each license within the resort area that applies to use the alternate
11 storage facility.

12 (9) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in
13 original packaging, prepared servings, or growlers."
14

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

16 **"16-6-303. Sale of liquor not purchased or transferred from agency liquor store forbidden --**
17 **penalty.** ~~It Except as otherwise allowed under 16-3-302(5) and 16-4-213(4)(a)(iii), it is unlawful for any licensee~~
18 to sell or keep for sale or have on the licensee's premises for any purpose any liquor except that purchased
19 from an agency liquor store or transferred as allowed in 16-4-404(7). Any licensee found in possession of or
20 selling and keeping for sale any liquor that was not purchased from an agency liquor store or transferred as
21 allowed in 16-4-404(7) shall, upon conviction, be punished by a fine of not less than \$500 or more than \$1,500,
22 by imprisonment for not less than 3 months or more than 1 year, or by both fine and imprisonment. If the
23 department is satisfied that the liquor was knowingly sold or kept for sale within the licensed premises by the
24 licensee or by the licensee's agents, servants, or employees, the department shall immediately revoke the
25 license."
26

27 NEW SECTION. **Section 5. Effective date.** [This act] is effective June 1, 2025.

28 - END -