

1 SENATE BILL NO. 59
2 INTRODUCED BY S. FITZPATRICK
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 LAWS RELATING TO PUBLIC CONVENIENCE AND NECESSITY; PROVIDING THAT PUBLIC
7 CONVENIENCE AND NECESSITY CONSIDERATIONS ARE LIMITED TO CONSIDERATION OF THE
8 ALCOHOLIC BEVERAGE; REVISING LAWS RELATED TO DEPARTMENT REQUESTS FOR ADDITIONAL
9 LICENSING INFORMATION; REVISING LAWS RELATED TO TABLE WINE; REVISING LAWS RELATING
10 TO SPECIAL PERMITS; AND AMENDING SECTIONS 16-3-103, 16-4-203, 16-4-207, AND 16-4-301, MCA."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13

14 **Section 1.** Section 16-3-103, MCA, is amended to read:

15 **"16-3-103. Unlawful sales solicitation or advertising -- exceptions.** (1) A person within the state
16 may not:

17 (a) canvass for, receive, take, or solicit orders for the purchase or sale of any liquor or act as agent
18 or intermediary for the sale or purchase of any liquor or be represented as an agent or intermediary unless
19 permitted to do so under rules that are promulgated by the department to govern the activities;

20 (b) canvass for or solicit orders for the purchase or sale of any beer or malt liquor except in the
21 case of beer proposed to be sold to beer licensees duly authorized to sell beer under the provisions of this
22 code;

23 (c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of
24 advertisement or any other announcement, publication, or price list of or concerning liquor or where or from
25 whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department
26 and then only in accordance with the rules.

27 (2) This section does not apply to:

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1 The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

2 (b) If the department receives the number of protests required for a public convenience and
3 necessity determination as specified in subsection (4)(c) and the application is for an original license or for a
4 transfer of location, the department shall schedule a public hearing to be held in the county of the proposed
5 location of the license to determine whether the protest presents sufficient cause to deny the application based
6 on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application
7 provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the
8 provisions of Title 2, chapter 4, part 6.

9 (c) The minimum number of protests necessary to initiate a public hearing to determine whether an
10 application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the
11 proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-
12 beverages licenses determined for that quota area according to 16-4-201(1), (2), and (9) but in no case less
13 than two. The minimum number of protests determined in this manner will apply only to applications for either
14 on-premises consumption beer or all-beverages licenses.

15 (d) A resident of a county in another state that adjoins the county in Montana from which an
16 application comes may protest an application only if the county or state of residence of the person has certified
17 to the department that a similarly situated Montana resident would be able to make formal protest of an
18 alcoholic beverage license application in that state or county. The department may, by rule, establish how the
19 certification is to be made."
20

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

22 **"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application**
23 **and issuance.** (1) (a) The following organizations or institutions that conduct a special event may receive up to
24 three-TWELVE special permits a year to sell beer and table wine to the patrons of the special event:

25 (i) An an organization or institution that has a tax-exempt designation under the provisions of
26 section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended,;

27 (ii) an organization or institution that is organized and operated to raise funds for a needy person;

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1 or

2 (iii) an organization or institution that is an accredited Montana postsecondary school and that
3 conducts a special event may receive a special permit to sell beer and table wine to the patrons of that special
4 event. An organization may receive up to three special permits a year.

5 (b) A civic league or organization that has a tax-exempt designation under section 501(c)(4) of the
6 Internal Revenue Code, 26 U.S.C. 501(c)(4), as amended, or an organization authorized by an accredited
7 Montana postsecondary school to engage in fundraising activities for intercollegiate athletics that has a tax-
8 exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C.
9 501(c)(3), as amended, may receive up to 12 special permits a year to sell beer and table wine. For purposes
10 of fundraising activities for intercollegiate athletics, only one organization for each Montana postsecondary
11 school may be authorized to apply for and receive special permits under this section. All net earnings from the
12 sale of beer and table wine must be contributed to the state of Montana or a political subdivision of the state or
13 must be devoted to purposes required of entities under section 501(c)(3) of the Internal Revenue Code, 26
14 U.S.C. 501(c)(3), as amended.

15 (c) An association or corporation engaged in professional sporting contests or junior hockey
16 contests may receive one special permit to sell beer and table wine ~~covering the entire~~ for contests played
17 during the covering the entire season of play if:

18 (i) the association or corporation is sanctioned by a sports organization that regulates the specific
19 sport;

20 (ii) the ~~contests played during the~~ season of play of the sport ~~is~~ are is specified in advance;

21 (iii) an admission fee to the contests is charged; ~~and~~ and

22 (iv) the contest events are held in facilities that provide seating for at least 1,000 patrons; ~~and~~

23 ~~(v) for professional sporting contests, the players receive more than nominal compensation.~~

24 (d) A chamber of commerce or business league that has a tax-exempt designation under section
25 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(6), as amended, may receive up to 12 special
26 permits a year to sell beer and table wine. A chamber of commerce may not use one of its special permits for
27 an event conducted by a business league, and a business league may not use one of its permits for an event

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1 conducted by a chamber of commerce. The chamber of commerce or business league receiving a special
2 permit shall obtain liquor liability insurance for any event it conducts.

3 (e) A winery located in the state and licensed pursuant to 16-4-107 may receive up to ~~three~~
4 ~~TWELVE~~ special permits during a calendar year to provide wine that was produced at the winery's licensed
5 premises.

6 (e)(f) The beer and wine sold under this subsection (1) must be consumed at the time when and
7 within the enclosure where the special event, activity, or sporting contest is held.

8 (f)(g) An application for a special permit must be presented ~~3-5~~ business days in advance, but the
9 department may, for good cause, waive the ~~3-day~~ 5-day requirement. The application must describe the
10 location of the enclosure where the special event, activity, or sporting contest is to be held, the nature of the
11 special event, activity, or sporting contest, and the period during which it is contemplated that the special event,
12 activity, or sporting contest will be held. An application for a permit for professional sporting contests or junior
13 hockey contests under subsection (1)(c) must provide the ~~inclusive~~ inclusive dates of ~~each contest played~~
14 during the season of play ~~for the sporting contest~~ for the sporting contest. The application must be
15 accompanied by the amount of the permit fee and a written statement of approval of the premises where the
16 special event, activity, or sporting contest is to be held issued by the local law enforcement agency that has
17 jurisdiction over the premises.

18 (g)(h) A special permit issued under this subsection (1) for the purpose of selling and serving beer
19 and table wine at a special event, activity, or sporting contest conducted on the premises of a county fairground
20 or public sports arena authorizes the permitholder to sell and serve beer and table wine in the grandstand and
21 bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

22 (h)(i) For the purposes of this subsection (1), a post of a nationally chartered veterans' organization
23 or a lodge of a recognized national fraternal organization otherwise licensed under this code is an organization
24 that may receive special permits for three special events a year, ~~as described in subsection (1)(a),~~ to sell beer
25 and table wine. All net proceeds must go to the post or lodge acquiring the special permit.

26 (2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national
27 fraternal organization not otherwise licensed under this code may receive, without notice or hearing as provided

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1 in 16-4-207, a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at the
2 post or lodge to members and their guests only, to be consumed within the hall or building of the post or lodge.

3 (b) The application of a nationally chartered veterans' organization or lodge of a recognized
4 national fraternal organization must describe the location of the hall or building where the special permit will be
5 used and the date it will be used.

6 (c) The special permit may be issued for a 24-hour period only, ending at 2 a.m., and the
7 department may not issue more than 12 special permits to any post or lodge during a calendar year."

8 - END -