

1 SENATE BILL NO. 75  
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 ALCOHOL LAWS RELATING TO  
6 LICENSING; REVISING LAWS RELATED TO BREWERS AND BEER IMPORTERS; ALLOWING OUT-OF-  
7 STATE BREWERIES TO BE REGISTERED IN MONTANA; ALLOWING CERTAIN SALES AND SHIPPING OF  
8 BEER; REVISING LAWS RELATED TO BEER SHIPPED BY BEER WHOLESALERS; PROVIDING THAT AN  
9 OUT-OF-STATE BREWERY REGISTERS; REVISING LAWS RELATING TO THE SUITABILITY OF LICENSE  
10 APPLICANTS; REVISING LAWS RELATING TO LICENSING QUALIFICATIONS; REVISING LAWS  
11 RELATING TO NONCONTIGUOUS PREMISES REQUIREMENTS; PROVIDING FOR ALCOHOL  
12 DELIVERIES AT A NONCONTIGUOUS STORAGE AREA; ADDING NEW ENTITY TYPES THAT CAN BE  
13 VETTED FOR LICENSURE; AND AMENDING SECTIONS 16-3-211, 16-3-212, 16-3-214, 16-3-230, 16-3-311,  
14 16-4-101, 16-4-107, 16-4-314, AND 16-4-401, MCA."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
17

18 **Section 1.** Section 16-3-211, MCA, is amended to read:

19 **"16-3-211. Monthly report of brewer, beer importer, or retailer -- inspection of books and**  
20 **premises.** (1) Every brewer and every beer importer licensed or registered to do business in this state shall, on  
21 or before the 15th day of each month, as prescribed by the department, make an exact return to the department  
22 of the amount of beer manufactured or imported by the brewer or importer, the amount sold by the brewer or  
23 importer in the previous month, and the inventory of the brewer or importer. The department may make an  
24 examination of any brewer's or beer importer's books and of the brewer's or importer's premises and otherwise  
25 check the accuracy of any return or check the alcoholic content of beer manufactured or imported by the brewer  
26 or importer.

27 (2) Every retailer licensed to do business in this state shall, on or before the 15th day of each

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1           (2)     A brewery may not use a common carrier for delivery of the brewery's product to the public or  
2 to licensed retailers.

3           (3)     A brewery may import or purchase, upon terms and conditions the department may require,  
4 necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing  
5 purposes.

6           (4)     An additional license fee may not be imposed on a brewery providing its own products on its  
7 licensed premises for consumption on the premises.

8           (5)     This section does not prohibit a licensed or registered brewer from shipping and selling beer  
9 directly to a wholesaler in this state under the provisions of 16-3-230."

10

11           **Section 4.** Section 16-3-230, MCA, is amended to read:

12           **"16-3-230. Beer required to be shipped to wholesaler.** Except as provided in 16-3-214 and 16-4-  
13 901, all beer that is to be distributed in Montana, ~~whether manufactured outside of or within the state of~~  
14 ~~Montana,~~ must be consigned to and sold and shipped, either directly or via a licensed storage depot, to a  
15 licensed wholesaler and unloaded into the wholesaler's warehouse in Montana or subwarehouse in Montana. A  
16 brewer or beer importer ~~may sell only to wholesalers from a storage depot in Montana and shall maintain~~  
17 records of all beer, including the name or kind received, on hand, and sold. The records may at any time be  
18 inspected by a representative of the department. The wholesaler shall distribute the beer from the warehouse  
19 or subwarehouse and shall keep records at the wholesaler's ~~principal place of business~~ licensed premises of all  
20 beer, including the name or kind received, on hand, sold, and distributed. The records may be inspected by a  
21 representative of the department at any time."

22

23           **Section 5.** Section 16-3-311, MCA, is amended to read:

24           **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may  
25 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed  
26 retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service,  
27 service to underage persons, and service to persons who are actually or apparently intoxicated. Except as

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1 provided in subsection (8), the premises must be separated from the rest of the building by permanent walls but  
2 may have inside access to the rest of the building at all times even if the businesses or uses in the other part of  
3 the building are unrelated to the operation of the premises in which the alcoholic beverages are served. If the  
4 premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are  
5 adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the  
6 presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key  
7 card access.

8 (b) A resort retail all-beverages licensee or a retail all-beverages licensee within the boundaries of  
9 a resort area may also utilize an alternate alcoholic beverage storage facility as allowed in 16-4-213(8).

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

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

26 (4) The premises may include one or more exterior patios or decks as long as sufficient physical  
27 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional

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1 perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and  
2 impedes foot traffic.

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

4 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is  
5 under the control of the licensed retailer approved for ~~onsite~~-alcoholic beverage storage, either onsite separate  
6 from its service area or offsite within 10 miles of the premises, as long as the licensed retailer demonstrates  
7 that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either  
8 by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks,  
9 or key card access. The application fee is \$100. A licensed on-premises consumption retailer's keg storage and  
10 beer lines running into the licensed premises may be in the same building location provided that the licensee is  
11 able to maintain control and adequate safeguards are in place to prevent public access. This includes a location  
12 within an off-premises license provided the storage area is segregated between the licensees and each  
13 licensee maintains control over its alcohol inventory.

14 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the  
15 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the  
16 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the  
17 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent  
18 underage service. The application fee is \$100. Licensees may receive alcohol deliveries at a noncontiguous  
19 storage area.

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

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

23 (i) the premises of the retailer and the premises of the brewery or winery are secured after  
24 business hours from each other and from any other business, including but not limited to prohibiting a customer  
25 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of  
26 operation as specified in 16-3-213(2)(b); and

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

1 hours.

2 (b) The term does not require permanent floor-to-ceiling walls."  
3

4 **Section 6.** Section 16-4-101, MCA, is amended to read:

5 **"16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant.**

6 (1) Except as provided in subsection (4), Any any person desiring to manufacture, import, or sell beer under the  
7 provisions of this code shall first apply to the department for a license to do so and pay with such the  
8 application the license fee prescribed. The department shall require of such the applicant satisfactory evidence  
9 that the applicant is of good moral character and a law-abiding person.

10 (2) Upon On being satisfied, from such the application or otherwise, that such the applicant is  
11 qualified, the department shall issue such a license to such the person, which and the license shall be must at  
12 all times be prominently displayed at the licensed premises in the place of business of such applicant.

13 (3) If the department shall find finds that such the applicant is not qualified, no a license shall may  
14 not be granted and such the license fee shall must be returned.

15 (4) A brewery that is not located in the state or a beer importer that holds the appropriate license  
16 from the United States department of the treasury that desires to distribute its beer within this state through  
17 licensed beer wholesalers shall apply to the department for registration on forms to be prepared and furnished  
18 by the department.

19 (5) A BREWERY OR BEER IMPORTER MAY NOT SHIP BEER INTO THIS STATE UNTIL THE REGISTRATION IS  
20 GRANTED BY THE DEPARTMENT. THE REGISTRATION MAY BE CANCELED OR SUSPENDED BY THE DEPARTMENT UPON A  
21 FINDING AFTER NOTICE AND HEARING THAT THE REGISTRANT HAS NOT COMPLIED WITH THE TERMS OF ITS  
22 REGISTRATION."

23

24 **Section 7.** Section 16-4-107, MCA, is amended to read:

25 **"16-4-107. Winery license -- winery and importer registration.** (1) (a) Wine, other than for personal  
26 consumption in conformity with federal exemptions from holding a basic permit as a bonded winery, may be  
27 manufactured or directly distributed to retailers within the state only by a licensed winery, and table wine may