

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; REVISING LAWS
9 RELATED TO RESORT AREA ALL-BEVERAGES LICENSES; REVISING LAWS RELATING TO SUITABLE
10 PREMISES FOR RETAIL LICENSES; PROVIDING THAT AN OUT-OF-STATE BREWERY REGISTERS;
11 REVISING LAWS RELATING TO THE SUITABILITY OF LICENSE APPLICANTS; REVISING LAWS
12 RELATING TO LICENSING QUALIFICATIONS; ADDING NEW ENTITY TYPES THAT CAN BE VETTED FOR
13 LICENSURE; AND AMENDING SECTIONS 16-3-211, 16-3-212, 16-3-214, 16-3-230, 16-3-302, 16-3-311, 16-4-
14 101, 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

Amendment - 2nd Reading/2nd House-tan - Requested by: Edward Buttrey - (H) Committee of the Whole

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

SB0075.003.001

1 (c) An applicant applying for an all-beverages license and any individual of the applicant who must
2 meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an
3 ownership interest in more than three establishments licensed under this chapter for all-beverages sales.

4 However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

5 (d) An applicant and any individual of the applicant who must meet the requirements of subsection
6 (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106.

7 (e) An applicant for an on-premises consumption license or any member of the applicant's
8 immediate family must be without financing from and may not have any affiliation to a manufacturer, importer,
9 bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership
10 interest in one or more manufacturer licenses. This prohibition also applies to any individual of the applicant
11 who must meet the requirements of subsection (2)(a).

12 (f) An applicant for an off-premises consumption license or any member of the applicant's
13 immediate family must be without financing from and may not have any affiliation to a manufacturer, importer,
14 bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who
15 must meet the requirements of subsection (2)(a).

16 (g) An applicant for a manufacturing, importing, or wholesaling license and any individual of the
17 applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any
18 establishment licensed under this chapter for retail alcoholic beverage sales.

19 (h) An applicant for a wholesale license and any individual of the applicant who must meet the
20 requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled
21 by a manufacturer of an alcoholic beverage."

22
23 NEW SECTION. Section 11. TRANSITION. THE DEPARTMENT SHALL RECLASSIFY EXISTING LICENSES TO A
24 REGISTRANT PURSUANT TO [SECTION 5 7] AFTER JUNE 30, 2024, AND DURING THE EXISTING LICENSEE'S RENEWAL.

25
26 COORDINATION SECTION. Section 12. Coordination instruction. If both House Bill No. 539 and
27 [this act] are passed and approved and both contain a section amending 16-3-311, then the sections amending

Amendment - 2nd Reading/2nd House-tan - Requested by: Edward Buttrey - (H) Committee of the Whole

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

SB0075.003.001

1 16-3-311 are void and 16-3-311 must be amended as follows:

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

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

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

Amendment - 2nd Reading/2nd House-tan - Requested by: Edward Buttrey - (H) Committee of the Whole

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

SB0075.003.001

1 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
2 alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the
3 inspections by local government agencies may not be required for department approval.

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

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

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

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

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

27 (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the

Amendment - 2nd Reading/2nd House-tan - Requested by: Edward Buttrey - (H) Committee of the Whole

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

SB0075.003.001

1 licensees are able to maintain control of their respective premises through adequate physical separation.
2 (9) (a) For the purposes of this section, "adequate physical separation" means:
3 (i) the premises of the retailer and the premises of the brewery or winery are secured after
4 business hours from each other and from any other business, including but not limited to prohibiting a customer
5 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of
6 operation as specified in 16-3-213(2)(b); and
7 (ii) the separation may include doors, gates, or windows that may be left open during business
8 hours.
9 (b) The term does not require permanent floor-to-ceiling walls."

10
11
12
13
14
15
16
17

NEW SECTION. Section 13. EFFECTIVE DATES. (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (2), [SECTIONS~~
~~Sections 1 THROUGH 5 4 AND 7] ARE EFFECTIVE JULY 1, 2024.~~
(2) [SECTIONS ~~6 THROUGH 8 8 THROUGH 1012~~] AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND
APPROVAL.
(3) [Sections 5 and 6] are effective October 1, 2023.

- END -