

1 SENATE BILL NO. 75
2 INTRODUCED BY S. FITZPATRICK
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
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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; ADDING NEW ENTITY
11 TYPES THAT CAN BE VETTED FOR LICENSURE; AND AMENDING SECTIONS 16-3-211, 16-3-212, 16-3-
12 214, 16-3-230, 16-4-101, 16-4-107, 16-4-314, AND 16-4-401, MCA."
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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16 **Section 1.** Section 16-3-211, MCA, is amended to read:

17 **"16-3-211. Monthly report of brewer, beer importer, or retailer -- inspection of books and**
18 **premises.** (1) Every brewer and every beer importer licensed or registered to do business in this state shall, on
19 or before the 15th day of each month, as prescribed by the department, make an exact return to the department
20 of the amount of beer manufactured or imported by the brewer or importer, the amount sold by the brewer or
21 importer in the previous month, and the inventory of the brewer or importer. The department may make an
22 examination of any brewer's or beer importer's books and of the brewer's or importer's premises and otherwise
23 check the accuracy of any return or check the alcoholic content of beer manufactured or imported by the brewer
24 or importer.

25 (2) Every retailer licensed to do business in this state shall, on or before the 15th day of each
26 month, as prescribed by the department, make an exact return to the department of the amount of beer
27 purchased in the previous month directly from any brewery not located in the state of Montana."
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1 purposes.

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

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

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

8 **"16-3-230. Beer required to be shipped to wholesaler.** Except as provided in 16-3-214 and 16-4-
9 901, all beer that is to be distributed in Montana, ~~whether manufactured outside of or within the state of~~
10 ~~Montana~~, must be ~~consigned to and sold and~~ shipped, either directly or via a licensed storage depot, to a
11 licensed wholesaler and unloaded into the wholesaler's warehouse in Montana or subwarehouse in Montana. A
12 brewer or beer importer ~~may sell only to wholesalers from a storage depot in Montana and shall maintain~~
13 records of all beer, including the name or kind received, on hand, and sold. The records may at any time be
14 inspected by a representative of the department. The wholesaler shall distribute the beer from the warehouse
15 or subwarehouse and shall keep records at the wholesaler's ~~principal place of business~~ licensed premises of all
16 beer, including the name or kind received, on hand, sold, and distributed. The records may be inspected by a
17 representative of the department at any time."

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19 **Section 5.** Section 16-4-101, MCA, is amended to read:

20 **"16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant.**

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

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

28 (3) If the department ~~shall find finds~~ that ~~such the~~ applicant is not qualified, ~~no a~~ license shall may

1 not be granted and ~~such~~the license fee shall ~~must~~ be returned.

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

6 (5) A brewery or beer importer may not ship beer into this state until the registration is granted by
7 the department. The registration may be canceled or suspended by the department upon a finding after notice
8 and hearing that the registrant has not complied with the terms of its registration."

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10 **Section 6.** Section 16-4-107, MCA, is amended to read:

11 **"16-4-107. Winery license -- winery and importer registration.** (1) (a) Wine, other than for personal
12 consumption in conformity with federal exemptions from holding a basic permit as a bonded winery, may be
13 manufactured or directly distributed to retailers within the state only by a licensed winery, and table wine may
14 be shipped directly by a winery with a direct shipment endorsement as provided in 16-4-1101 to an individual in
15 Montana who is at least 21 years of age. An application for a winery license must be accompanied by a fee of
16 \$400, which constitutes the first annual license fee, and a licensee shall in each succeeding year pay an annual
17 fee as provided in 16-4-501. Winery licensees located in Montana must hold the appropriate basic permit
18 required by the United States department of the treasury and be qualified for a license in accordance with the
19 provisions of ~~16-4-401(4)~~ 16-4-401(2). Winery licensees located in another state must hold the appropriate
20 basic permit required by the United States department of the treasury and the appropriate license to
21 manufacture wine from the state in which the winery is located and shall provide all other information required
22 by the department.

23 (b) A winery located in Montana that is licensed to do business in the state shall, each quarter and
24 in the manner and form prescribed by the department, report to the department the amount of wine
25 manufactured or imported by the winery in the previous quarter and the winery's inventory. The department
26 may at any time examine a winery's books.

27 (2) (a) A winery that is not located in the state or an importer of table wines that holds the
28 appropriate license from the United States department of the treasury and that desires to distribute its table

1 wines within this state through licensed table wine distributors shall apply to the department ~~of revenue~~ for
2 registration on forms to be prepared and furnished by the department.

3 (b) Each winery shall furnish the department with a copy of each container label currently used by
4 the winery on its products imported into Montana. The department shall require the winery or importer to agree
5 to furnish monthly and other reports concerning quantities and prices of table wine that it ships into the state,
6 names and addresses of consignees, and any other information that the department may determine to be
7 necessary to ensure that importation and distribution of table wines within this state conform to the
8 requirements of this code.

9 (c) A winery or importer of table wines may not ship table wines into this state until the registration
10 is granted by the department. The registration may be canceled or suspended by the department upon a finding
11 after notice and hearing that the registrant has not complied with the terms of its registration.

12 (3) A winery that is not located in Montana, that holds the appropriate license from the United
13 States department of the treasury, that is not already registered with the department, and that desires to sell
14 and ship table wine directly to individuals in Montana who are at least 21 years of age shall apply to the
15 department for registration pursuant to subsection (2) and for a direct shipment endorsement pursuant to 16-4-
16 1101."

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18 **Section 7.** Section 16-4-314, MCA, is amended to read:

19 **"16-4-314. Academic brewer license under small brewer exception -- Flathead valley**
20 **community college or Montana state university-Billings -- conditions.** (1) Flathead valley community
21 college or Montana state university-Billings may apply for an academic brewer license under this section that
22 allows the licensee to brew and sell beer to wholesalers as provided in this section. The academic brewer
23 license:

24 (a) does not allow for the sale of beer at retail and does not allow for the operation of a sample
25 room as provided in 16-3-213;

26 (b) is limited to production of 10,000 barrels annually;

27 (c) allows for distribution only to wholesalers as provided in 16-3-214;

28 (d) is under the ownership of Flathead valley community college or Montana state university-