

Amendment - 1st Reading/2nd House-blue - Requested by: Jason Small - (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

HB0155.002.001

HOUSE BILL NO. 155

INTRODUCED BY K. ZOLNIKOV

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS; REVISING DEFINITIONS; REVISING LICENSURE LAWS; REVISING LAWS RELATING TO CERTAIN OWNERSHIP INTEREST LICENSE TRANSFERS; AND AMENDING SECTIONS 16-4-101, 16-4-103, 16-4-104, 16-4-115, 16-4-208, 16-4-305, 16-4-306, AND 16-4-415, MCA."

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

Section 1. Section 16-4-101, MCA, is amended to read:

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

(1) Any person desiring to manufacture, distribute, import, or sell beer under the provisions of this code shall first apply to the department for a license to do so and pay with ~~such the~~ application the license fee prescribed. The department shall require of ~~such the~~ applicant satisfactory evidence that the applicant is ~~of good moral character and a law-abiding person~~ suitable for carrying on the operations of a license.

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

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

Section 2. Section 16-4-103, MCA, is amended to read:

"16-4-103. Wholesalers' licenses -- application and issuance -- subwarehouses -- imported beer handled through warehouse or subwarehouse -- wine storage. (1) Any person desiring to sell and distribute beer as a wholesaler shall apply to the department for a license and tender with the application the required

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license fee. The department shall issue wholesale licenses to qualified applicants in accordance with the provisions of this code. A license must be prominently displayed at all times ~~in the place of business at the~~ licensed premises of the wholesaler.

(2) An applicant shall maintain a fixed place of business, sufficient capital, and the facilities, storehouse, receiving house, or warehouse for the receiving of, storage, handling, and moving of beer in large and jobbing quantities for distribution and sale in original packages to other licensed wholesalers or licensed retailers. Each wholesaler is entitled to only one wholesale license, which must be issued for the wholesaler's ~~principal place of business~~ licensed premises in Montana. Duplicate licenses may be issued for the wholesaler's subwarehouses in Montana. ~~The duplicate licenses~~ These licenses must be prominently displayed at all times at the subwarehouses.

~~(3) If the applicant is a foreign corporation, the corporation must be authorized to do business in Montana.~~

~~(4)~~ A wholesaler that is also licensed as a table wine distributor may store wine in any of the wholesaler's warehouses or subwarehouses.

~~(5)~~(4) As used in subsection (1), "distribute" ~~has the meaning provided in 16-3-218~~ means to deliver beer to a retailer's premises that is licensed to sell beer as well as an alternate alcoholic beverage storage facility as allowed in 16-4-213(8)."

Section 3. Section 16-4-104, MCA, is amended to read:

"16-4-104. Beer retailer's license -- application and issuance -- check of alcoholic content by department. (1) Any person desiring to possess and have beer for the purpose of retail sale under the provisions of this code shall first apply to the department for a ~~permit~~ license to do so and submit with the application the license fee.

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

(3) If the department finds that the applicant is not qualified, a license may not be granted and the

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1 license fee must be returned by the department.

2 (4) The department may, at any time, examine the books of account and the premises of any
3 licensed retailer and otherwise check the retailer's methods of conducting business and the alcoholic content of
4 the beer kept for sale.

5 (5) A person may not sell beer at retail without a valid license issued under this code."
6

7 **Section 4.** Section 16-4-115, MCA, is amended to read:

8 **"16-4-115. Beer and wine licenses for off-premises consumption.** (1) A retail license to sell beer
9 or table wine, or both, in the original packages for off-premises consumption may be issued only to a ~~person,~~
10 ~~firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer or~~
11 ~~table wine, or both~~ individuals or entities qualified for licensure under 16-4-401. If the premises proposed for
12 licensing are operated in conjunction with another business, that business must be a grocery store or drugstore
13 licensed as a pharmacy. The number of licenses that the department may issue is not limited by the provisions
14 of 16-4-105 but must be determined by the department in the exercise of its sound discretion, and the
15 department may in the exercise of its sound discretion grant or deny an application for any license or suspend
16 or revoke any license for cause.

17 (2) ~~Upon~~ On receipt of a completed application for a license under this section, accompanied by
18 the necessary license fee as provided in 16-4-501, the department shall request that the department of justice
19 make a background investigation of all matters relating to the application.

20 (3) Based on the results of the investigation or in exercising its sound discretion as provided in
21 subsection (1), the department shall determine whether:

22 (a) the applicant is qualified to receive a license;

23 (b) the applicant's premises are suitable for the carrying on of the business; and

24 (c) the requirements of this code and the rules promulgated by the department are met and
25 complied with.

26 (4) License applications submitted under this section are not subject to the provisions of 16-4-203
27 and 16-4-207.

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(5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging."

Section 5. Section 16-4-208, MCA, is amended to read:

"16-4-208. Airport all-beverages license. (1) The department ~~of revenue~~ shall issue one all-beverages license, to be known as a public airport all-beverages license, for use at each publicly owned airport served by scheduled airlines and enplaning and deplaning a minimum total of 20,000 passengers annually when:

(a) application is made;

(b) ~~upon~~ on finding that this license is justified by public convenience and necessity, including the convenience and necessity of the public traveling by scheduled airlines; and

(c) following a hearing as provided in 16-4-207.

(2) Application must be made by the agency owning and operating the airport. The agency owning and operating the airport may lease the airport all-beverages license to an individual or entity approved by the department.

(3) A public airport all-beverages license and all retail alcoholic beverage sales under it are subject to all statutes and rules governing all-beverages licenses.

(4) The department ~~of revenue~~ shall issue a public airport all-beverages license to a qualified applicant regardless of the number of all-beverages licenses already issued within the all-beverages license quota area in which the airport is situated.

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

Section 6. Section 16-4-305, MCA, is amended to read:

"16-4-305. Montana heritage retail alcoholic beverage licenses -- use -- quota. (1) (a) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of

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1 providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10.
2 The licenses are to be considered when determining the appropriate quotas for issuance of other retail ~~liquor~~
3 alcoholic beverage licenses.

4 (b) The department may issue a wine amendment pursuant to 16-4-105(6) if the use of a Montana
5 heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

6 (2) The Montana heritage preservation and development commission may lease a Montana
7 heritage retail alcoholic beverage license to an individual or entity approved by the department.

8 (3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing
9 the use and operation of retail ~~liquor~~ alcoholic beverage licenses.

10 (4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are all-
11 beverages liquor licenses and retail on-premises beer licenses that have been transferred to the Montana
12 heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of
13 1999."

14
15 **Section 7.** Section 16-4-306, MCA, is amended to read:

16 **"16-4-306. Transfer of existing license to political subdivision of state -- rulemaking.** (1) A
17 political subdivision of the state of Montana may apply to the department for the transfer of an existing retail
18 beer or beer and wine license and, ~~upon~~ on approval by the department, the political subdivision may own and
19 operate the license or lease the license to a person, firm, corporation, or other entity approved by the
20 department.

21 (2) A license that is transferred to a political subdivision of the state:

22 (a) may be transferred only to another political subdivision of the state and not to any other person,
23 firm, corporation, or entity;

24 (b) does not authorize and may not be used in conjunction with gambling activities except for
25 horseracing as authorized in Title 23, chapter 4;

26 (c) may be authorized only for a fairgrounds complex owned by the political subdivision;

27 (d) is authorized for use in all facilities contained in the fairgrounds complex;

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- (e) ~~is not, with respect to the facilities, subject to the provisions of 16-4-204 (5);~~
- (f) ~~—must be taken into account in determining the license quota restrictions of 16-4-105; and~~
- (g)(f) is subject to all license fees, laws, and rules applicable to retail beer or beer and wine licenses.
- (3) The department may adopt rules to implement the provisions of this section."

Section 8. Section 16-4-415, MCA, is amended to read:

"16-4-415. Changes in business entity ownership -- department approval required. (1) In the case of corporate licensees, a person or entity that does not own stock or owns less than 15% of the stock in the corporation may not receive stock that results in the person or entity's share of stock in the corporation being 15% or greater, unless the department reviews and determines that the person or entity qualifies for ownership of a license as provided in 16-4-401.

(2) In the case of all other business entities, when a proposed transfer of ownership would result in a party who prior to the transfer owned no interest in the license owning 15% or more interest in the license, the proposed transfer must be submitted to the department for review. The proposed new party must qualify for ownership of a liquor an alcoholic beverage license as provided in 16-4-401.

(3) AN OWNERSHIP INTEREST IN AN ALCOHOLIC BEVERAGE LICENSE MAY BE TRANSFERRED TO AN EXISTING OWNER WITH 15% OR MORE OWNERSHIP IN THE LICENSE WITHOUT DEPARTMENT APPROVAL, SUBJECT TO REPORTING REQUIREMENTS AT THE TIME OF RENEWAL.

~~(3)~~(4) In the case of a proposed change in business entity, the proposed new business entity shall apply for a transfer of ownership of the license with the department prior to changing the business entity. The proposed new business entity must qualify for ownership of a liquor an alcoholic beverage license as provided in 16-4-401. If the existing owners and ownership percentages do not change under the proposed change in business entity, the new entity shall notify the department of the new business entity type, but prior department approval is not required."

COORDINATION SECTION. **Section 9. Coordination instruction.** If House Bill No. 127 is passed and approved and if it repeals 16-4-103, then [section 2 of this act], amending 16-4-103, is void.

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