

HOUSE BILL NO. 164

INTRODUCED BY D. HARVEY, B. CARTER

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOLIC BEVERAGE LAWS RELATING TO CATERING ENDORSEMENTS; ALLOWING BEER AND WINE LICENSEES TO OBTAIN A CATERING ENDORSEMENT WITHOUT HAVING TO BE ENGAGED PRIMARILY IN THE BUSINESS OF PROVIDING MEALS; PROVIDING THAT CONCESSIONAIRES MAY NOT SPONSOR CATERED EVENTS; AMENDING SECTIONS 16-4-111 AND 16-4-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 16-4-111, MCA, is amended to read:

"16-4-111. Catering endorsement for beer and wine licensees. (1) (a) A person who is ~~engaged primarily in the business of providing meals with table service and who is~~ licensed to sell beer at retail or beer and wine at retail for on-premises consumption may, ~~upon~~on the approval of the department, be granted a catering endorsement to the license to allow the catering and sale of beer or beer and wine to persons attending a special event ~~upon~~on premises not otherwise licensed for the sale of beer or beer and wine for on-premises consumption. The beer or wine must be consumed on the premises where the event is held.

(b) A person who is licensed pursuant to 16-4-420 to sell beer at retail or beer and wine at retail for on-premises consumption may, ~~upon~~on the approval of the department, be granted a catering endorsement to the license to allow the catering and sale of beer and wine to persons attending a special event ~~upon~~on premises not otherwise licensed for the sale of beer or beer and wine, along with food equal in cost to 65% of the total gross revenue from the catering contract, for on-premises consumption. The beer or wine must be consumed on the premises where the event is held.

(2) ~~A written~~ An application for a catering endorsement and an annual fee of \$200 must be submitted to the department for its approval.

(3) A licensee who holds a catering endorsement may not cater an event in which the licensee or

1 the concessionaire of the licensee is the sponsor. The catered event must be within 100 miles of the licensee's
2 regular place of business licensed premises measured in a straight line from the nearest entrance of the
3 licensed premises to the nearest boundary of the catered event.

4 (4) Except as provided in subsection (8), the storage of alcoholic beverages may occur on the
5 premises of the catered event 1 day prior to the catered event until 1 day following the conclusion of the catered
6 event if the alcoholic beverages are in a secured location that prevents access by anyone other than the
7 licensee or the licensee's employees.

8 (4)(5) The licensee shall notify the local law enforcement agency that has jurisdiction over the
9 premises that the catered event is to be held. A local government may charge a fee of \$35 ~~must accompany the~~
10 ~~notice.~~

11 (5)(6) The sale of beer or beer and wine pursuant to a catering endorsement is subject to the
12 provisions of 16-6-103.

13 (6)(7) The sale of beer or beer and wine pursuant to a catering endorsement is subject to the
14 provisions of 16-3-306, unless entities named in 16-3-306 give their written approval for the on-premises sale of
15 beer or beer and wine on premises where the event is to be held.

16 ~~(7) (a) A catering endorsement issued for the purpose of selling and serving beer or beer and wine~~
17 ~~at a special event conducted on the premises of a county fairground or public sports arena authorizes the~~
18 ~~licensee to sell and serve beer or beer and wine in the grandstand and bleacher area of the premises, as well~~
19 ~~as from a booth, stand, or other fixed place on the premises.~~

20 ~~(b) A catering endorsement issued for the purpose of selling and serving beer or beer and wine at~~
21 ~~a sporting event conducted on the premises of a Montana university as provided in 16-4-112 authorizes the~~
22 ~~licensee to sell and serve beer or beer and wine in the grandstand and bleacher area of the premises, as well~~
23 ~~as from a booth, stand, or other fixed place on the premises.~~

24 (8) A licensee may sell and serve beer and wine in the grandstands and bleacher area of the
25 premises, as well as from a booth, stand, or other fixed placed on the premises when the catered event is held
26 on the premises of a county fairground, public sports arena, or Montana university as defined in 16-4-112. If the
27 licensee has a written agreement with the state of Montana, a political subdivision of the state, or a Montana
28 university to sell and serve beer and wine for multiple catered events at the premises, the licensee may store

beer and wine to be used for the catered events on the premises of the fairground, public sports arena, or Montana university for the length of the written agreement if the beer and wine can be stored in a secure location that prevents access by anyone other than the licensee or the licensee's employees. Each catered event held at the premises is subject to the requirement in subsection (5) and must be individually reported to the department.

~~(8)(9)~~ A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, a Montana university as provided in 16-4-112, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended."

Section 2. Section 16-4-204, MCA, is amended to read:

"16-4-204. Transfer -- catering endorsement for all-beverages licensees -- competitive bidding - rulemaking. (1) (a) Except as provided in subsection (3), a license may be transferred to a new owner and to a location outside the quota area where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within 5 miles of its corporate limits, by more than 43%; ~~or~~ and

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer.

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a competitive bidding process is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(2) When the department determines that a license may be transferred from one quota area to another under subsection (1), the department shall use a competitive bidding process as provided in 16-4-430

to determine the party afforded the opportunity to purchase and transfer a license.

(3) A license within an incorporated quota area may be transferred to a new owner and to a new unincorporated location within the same county on application to and with consent of the department when the total number of all-beverages licenses in the current quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(4) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

(5) (a) Any all-beverages licensee is, ~~upon~~on the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event on premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.

(b) ~~A written~~ An application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) An all-beverages licensee who holds ~~an endorsement granted under this subsection (5) a~~ catering endorsement may not cater an event in which the licensee or the concessionaire of the licensee is the sponsor. The catered event must be within 100 miles of the licensee's ~~regular place of business~~ licensed premises measured in a straight line from the nearest entrance of the licensed premises to the nearest boundary of the catered event.

(d) Except as provided in subsection (5)(h), the storage of alcoholic beverages may occur on the premises of the catered event 1 day prior to the catered event until 1 day following the conclusion of the catered event if the alcoholic beverages are in a secured location that prevents access by anyone other than the licensee or the licensee's employees.

~~(d)(e)~~ (e) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A local government may charge a fee of \$35 ~~must accompany the notice.~~

~~(e)(f)~~ (f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions

1 of 16-6-103.

2 ~~(f)(g)~~ The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions
3 of 16-3-306, unless entities named in 16-3-306 give their written approval.

4 ~~(g) — A catering endorsement issued for the purpose of selling and serving beer and wine at a~~
5 ~~special event conducted on the premises of a county fairground or public sports arena authorizes the licensee~~
6 ~~to sell and serve beer and wine in the grandstand and bleacher area of the premises, as well as from a booth,~~
7 ~~stand, or other fixed place on the premises.~~

8 ~~(h) — A catering endorsement issued for the purpose of selling and serving liquor or beer and wine at~~
9 ~~a sporting event conducted on the premises of a Montana university as provided in 16-4-112 authorizes the~~
10 ~~licensee to sell and serve liquor or beer and wine in the grandstand and bleacher area of the premises, as well~~
11 ~~as from a booth, stand, or other fixed place on the premises.~~

12 (h) A licensee may sell and serve liquor, beer, and wine in the grandstands and bleacher area of
13 the premises, as well as from a booth, stand, or other fixed placed on the premises when the catered event is
14 held on the premises of a county fairground, public sports arena, or Montana university as defined in 16-4-112.
15 If the licensee has a written agreement with the state of Montana, a political subdivision of the state, or a
16 Montana university to sell and serve liquor, beer, and wine for multiple catered events at the premises, the
17 licensee may store liquor, beer, and wine to be used for the catered events on the premises of the fairground,
18 public sports arena, or Montana university for the length of the written agreement if the liquor, beer, and wine
19 can be stored in a secure location that prevents access by anyone other than the licensee or the licensee's
20 employees. Each catered event held at the premises is subject to the requirement in subsection (5)(e) and must
21 be individually reported to the department.

22 (i) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the
23 catered event unless the sponsor is the state of Montana, a political subdivision of the state, a Montana
24 university as provided in 16-4-112, or a qualified entity under section 501(c) of the Internal Revenue Code, 26
25 U.S.C. 501(c), as amended.

26 (6) The department may adopt rules to implement this section."
27

28 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

Amendment - 1st Reading-white - Requested by: Edward Buttrey - (H) Business and Labor

68th Legislature

Drafter: Jameson Walker, 406-444-3722

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- END -

AMEND