

SENATE BILL NO. 312

INTRODUCED BY T. VERMEIRE, D. SALOMON, J. WELBORN, D. ZOLNIKOV, R. LYNCH, C. POPE, E.

BOLDMAN, C. FRIEDEL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING BREWERY LAWS TO ALLOW FOR COLLABORATION BEERS; ALLOWING BREWERS TO SERVE BEER NOT BREWED ON THE PREMISES IF MADE IN COLLABORATION WITH ANOTHER MONTANA SMALL BREWERY; PROVIDING RESTRICTIONS; AND AMENDING SECTIONS 16-3-213 AND 16-3-214, MCA."

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

Section 1. Section 16-3-213, MCA, is amended to read:

"16-3-213. **Brewers or beer importers not to retail beer -- small brewery exceptions -- brewer collaboration.** (1) Except as provided for small breweries in subsection (2), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 100 barrels or more than 60,000 barrels, including:

- (i) the production of all affiliated manufacturers; and
(ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises, subject to subsection (4). The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day for consumption on the premises or in prepared servings through curbside pickup, provided that the 48-ounce limit may not in any way

1 limit a small brewery's sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided  
2 annually for on-premises consumption including all affiliated manufacturers.

3 (3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer:

4 (a) that one or more members of the manufacturing entity have more than a majority share interest  
5 in or that controls directly or indirectly another beer manufacturing entity;

6 (b) for which the business operations conducted between or among entities are interrelated or  
7 interdependent to the extent that the net income of one entity cannot reasonably be determined without  
8 reference to operations of the other entity; or

9 (c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or  
10 logos are identical or nearly identical.

11 (4) A small brewery may serve in its sample room beer not brewed and fermented on the premises  
12 if:

13 (a) the beer is brewed in collaboration with another brewery, including multiple breweries;

14 (b) all brewers were actively involved in the brewing of the beer. For the purposes of this  
15 subsection (4)(b), the term "actively involved" means that all brewers were present for the brewing process.

16 (c) no more than six distinct collaboration beers, brewed and fermented at another brewery, may  
17 be served in a calendar year;

18 (d) the amount of beer that a brewer serves under this section, for any one type of distinct  
19 collaboration beer, does not exceed an equal proportion of the beer produced based on the number of  
20 participating breweries or seven barrels, whichever is less; and

21 (e) all brewers report to the department:

22 (i) that the brewers will collaborate as provided in this subsection (4) prior to the collaboration; and

23 (ii) sales from the collaboration for tax reporting."

24

25 **Section 2.** Section 16-3-214, MCA, is amended to read:

26 **"16-3-214. Beer sales by brewers -- sample room exception.** (1) Subject to the limitations and  
27 restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon  
28 payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the

1 department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of  
2 this code and rules prescribed by the department, to:

3 (a) sell and deliver beer from its storage depot or brewery to:

4 (i) a wholesaler;

5 (ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to  
6 deliver the beer and if:

7 (A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a  
8 day to each licensed retailer; and

9 (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels  
10 a year; or

11 (iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or  
12 growlers;

13 (b) provide its own products for consumption on its licensed premises without charge or, if it is a  
14 small brewery, provide its own products or collaboration products at a sample room as provided in 16-3-213; or

15 (c) do any one or more of the acts of sale and delivery of beer as provided in this code.

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

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

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

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

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