

SENATE BILL NO. 366

INTRODUCED BY J. TREBAS, G. NIKOLAKAKOS, M. HOPKINS, C. FRIEDEL, J. ELLSWORTH, D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOL LAWS RELATED TO AGE; PROVIDING THAT A PERSON WHO IS AT LEAST 18 YEARS OF AGE BUT UNDER THE AGE OF 21 MAY POSSESS AND CONSUME BEER OR WINE WHILE WITH CERTAIN PEOPLE; PROVIDING PENALTIES FOR FALSELY CLAIMING CERTAIN RELATIONSHIPS; AMENDING SECTIONS 16-3-301, 16-4-1002, 16-4-1006, AND 16-6-305, MCA."

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

NEW SECTION. Section 1. Possession of beer or wine for minors -- over age 18 but less than age 21 -- parental consent -- spouses. A person who is at least 18 years of age but under the age of 21 may possess and consume beer or wine with the consent of and in the presence of the person's parent, legal guardian, or spouse who is 21 years of age old or older. The consumption of beer or wine may be on private property or at a location licensed for on-premises consumption, if permitted by the licensee. It is not unlawful for the person's parent, legal guardian, or spouse or a licensee to furnish beer or wine to the person who is at least 18 years of age.

Section 2. Section 16-3-301, MCA, is amended to read:

"16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age. (1) It is unlawful for a licensed retailer to purchase or acquire beer or wine from anyone except a brewery, winery, or wholesaler licensed under the provisions of this code except as allowed in 16-4-213(8).

(2) It is unlawful for a licensed retailer to transport beer or wine from one licensed premises or other facility to any other licensed premises owned by the licensee except as allowed in 16-4-213(8).

(3) It is unlawful for a licensed retailer to purchase or acquire liquor from anyone except an agency liquor store except as allowed in 16-4-213(8).

1 (4) It is unlawful for a licensed wholesaler to purchase beer or wine from anyone except a brewery,
2 winery, or wholesaler licensed or registered under this code.

3 (5) It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or
4 give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

5 (a) except as provided in [section 1], any person under 21 years of age; or

6 (b) any person actually, apparently, or obviously intoxicated.

7 (6) Any person under 21 years of age or any other person who knowingly misrepresents the
8 person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with
9 the licensee and, upon conviction, is subject to the penalty provided in 45-5-624. However, nothing in this
10 section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in
11 violation of any federal law.

12 (7) All licensees shall display in a prominent place in their premises a placard, issued by the
13 department, stating fully the consequences for violations of the provisions of this code by persons under 21
14 years of age.

15 (8) For purposes of 45-5-623 and this title, the establishment of the following facts by a person
16 making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of
17 innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

18 (a) the purchaser falsely represented and supported with documentary evidence that an ordinary
19 and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages;

20 (b) the appearance of the purchaser was such that an ordinary and prudent person would believe
21 the purchaser to be of legal age to purchase alcoholic beverages; and

22 (c) the sale was made in good faith and in reasonable reliance upon the representation and
23 appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages. (See
24 compiler's comments for contingent termination of certain text.)"

25

26 **Section 3.** Section 16-4-1002, MCA, is amended to read:

27 **"16-4-1002. Legislative intent.** It is the intent of this part that retail establishments and manufacturers
28 licensed to sell or serve alcoholic beverages to the public ensure that all licensees and their employees that sell

1 or serve alcoholic beverages are appropriately trained to comply with state law prohibiting the sale or service of
 2 alcoholic beverages to persons under 21 years of age, to persons under [section 1], and to persons who are
 3 intoxicated. This part does not apply to special permits issued under 16-4-301."

4

5 **Section 4.** Section 16-4-1006, MCA, is amended to read:

6 **"16-4-1006. Responsible server and sales training program.** (1) The department shall certify all
 7 server and sales training programs that include the following:

8 (a) effects of alcohol on the human body;

9 (b) information, including criminal, civil, and administrative penalties, related to 27-1-710 and this
 10 code;

11 (c) procedures for checking identification, including compliance with [section 1];

12 (d) procedures for gathering proper documentation that may affect the licensee's liability;

13 (e) training for skills to handle difficult situations and to learn evaluation techniques regarding
 14 intoxicated persons or others that pose potential liability;

15 (f) a final test; and

16 (g) a certificate of completion, which must be provided to participants who pass the final test.

17 (2) The department may not provide a responsible server and sales training program."

18

19 **Section 5.** Section 16-6-305, MCA, is amended to read:

20 **"16-6-305. Age limit for sale or provision of alcoholic beverages -- liability of provider.** (1) (a)

21 Except as provided in [section 1], and in the case of an alcoholic beverage provided in a nonintoxicating
 22 quantity to a person under 21 years of age by the person's ~~parent or guardian~~, physician or dentist for medicinal
 23 purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in
 24 connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a
 25 person under 21 years of age.

26 (b) Except as provided in [section 1], ~~A parent, guardian, or other person~~ a person may not

27 knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years
 28 of age.

1 (c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic
2 beverage that is sufficient to produce:

- 3 (i) a blood, breath, or urine alcohol concentration in excess of 0.05; or
- 4 (ii) substantial or visible mental or physical impairment.

5 (2) Except as provided in [section 1], A person is guilty of a misdemeanor who:

6 (a) invites a person under the age of 21 years into a public place where an alcoholic beverage is
7 sold and treats, gives, or purchases an alcoholic beverage for the person;

8 (b) permits the person in a public place where an alcoholic beverage is sold to treat, give, or
9 purchase alcoholic beverages for the person; ~~or~~

10 (c) holds out the person to be 21 years of age or older to the owner of the establishment or to the
11 owner's employee; or

12 (d) falsely holds out the person meets the requirements of [section 1].

13 (3) It is unlawful for any person to fraudulently misrepresent the person's age to any dispenser of
14 alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in
15 any identification card, including a tribal identification card.

16 (4) A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition
17 to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by
18 the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the
19 result of the intoxicated condition created by the violation. (See compiler's comments for contingent termination
20 of certain text.)"

21
22 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
23 integral part of Title 16, and the provisions of Title 16 apply to [section 1].

24 - END -