

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - Free Conference
Committee on HB 539**

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

HB0539.003.009

1 HOUSE BILL NO. 539

2 INTRODUCED BY K. ZOLNIKOV

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS;

5 ALLOWING AN ALCOHOLIC BEVERAGES LICENSEE TO OPERATE A GUEST RANCH OR SIMILAR

6 BUSINESS AND SERVE ALCOHOL AT THE PREMISES; REVISING DEFINITIONS; REVISING LAWS

7 RELATED TO LICENSE LAPSE; REVISING LAWS RELATING TO MONTANA DISTILLERY HOURS OF

8 OPERATION; AMENDING SECTIONS 16-1-106, ~~AND 16-3-302,~~ AND 16-3-311, AND 16-4-312, MCA; AND

9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

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

12

13 **Section 1.** Section 16-1-106, MCA, is amended to read:

14 **"16-1-106. Definitions.** As used in this code, the following definitions apply:

15 (1) "Agency franchise agreement" means an agreement between the department and a person
16 appointed to sell liquor and table wine as a commission merchant rather than as an employee.

17 (2) "Agency liquor store" means a store operated under an agency franchise agreement in
18 accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises
19 consumption.

20 (3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

21 (4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink
22 that contains more than 0.5% of alcohol by volume.

23 (5) (a) "Beer" means:

24 (i) a malt beverage containing not more than 8.75% of alcohol by volume; or

25 (ii) an alcoholic beverage containing not more than 14% alcohol by volume:

26 (A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both,
27 in potable brewing water, of malted cereal grain; and

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1 (b) The term does not require permanent floor-to-ceiling walls."

2

3 **Section 4.** Section 16-4-312, MCA, is amended to read:

4 **"16-4-312. Domestic distillery.** (1) A distillery located in Montana and licensed pursuant to 16-4-311
5 may:

6 (a) import necessary products in bulk;

7 (b) bottle, produce, blend, store, transport, or export liquor that it produces; and

8 (c) perform those operations that are permitted for bonded distillery premises under applicable
9 regulations of the United States department of the treasury.

10 (2) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to
11 the department under this code, and the department shall include the distillery's liquor as a listed product.

12 (b) The distillery may use a common carrier for delivery of the liquor to the department.

13 (c) A distillery that produces liquor within the state under this subsection (2) shall maintain records
14 of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and
15 prices of liquor that it ships to the department and other information that the department may determine to be
16 necessary to ensure that distribution of liquor within this state conforms to the requirements of this code.

17 (3) A microdistillery may:

18 (a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the
19 microdistillery to consumers for prepared servings;

20 (i) ~~through~~ curbside pickup between 10 a.m. and 8 p.m.; and

21 (ii) ~~or consumption on the premises between 10 a.m. and 8 p.m. for on-premises consumption~~
22 during the hours of operation that are identical to those allowed for a brewery license provided for in 16-3-
23 213(2)(b) and corresponding administrative rules relating to the service, consumption, and possession of
24 alcoholic beverages on the premises; or

25 (b) sell liquor in original packaging that it produces at retail at the distillery between the hours of 8
26 a.m. and 2 a.m. directly to the consumer, including curbside pickup, for off-premises consumption if:

27 (i) not more than ~~4.75~~ 4.5 liters a day is sold to an individual; and

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1 (ii) the minimum retail price as determined by the department is charged."
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4 NEW SECTION. Section 5. Transition. The department shall revise its administrative rules
5 implementing 16-3-213 and 16-4-312 or any other applicable statute to include sample room hours of
6 operations that are identical for Montana distilleries and breweries. The intent of this act is to make the hours of
7 operation for service to and consumption and possession of alcohol by consumers at breweries and distilleries
8 equal.
9

10 COORDINATION SECTION. Section 6. Coordination instruction. If both House Bill No. 164 and
11 [this act] are passed and approved and both contain a section that amends 16-1-106 to provide a definition for
12 the term "guest ranch", then [section 1 of this act], amending 16-1-106, is void.
13

14 COORDINATION SECTION. Section 7. Coordination instruction. If both Senate Bill No. 75 and
15 [this act] are passed and approved and both contain a section that amends 16-3-302, then the sections
16 amending 16-3-302 are void and 16-3-302 must be amended as follows:

17 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to
18 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the
19 retailer.

20 (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf
21 course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under
22 16-4-109 to sell beer and wine:

23 (a) in the building or other structural premises constituting the clubhouse or primary indoor
24 recreational quarters of the golf course; and

25 (b) at any place within the boundaries of the golf course, from a portable satellite vehicle or other
26 movable satellite device that is moved from place to place, whether inside or outside of a building or other
27 structure.

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1 (3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place
2 within the boundaries of the golf course, whether inside or outside of a building or other structure.

3 (4) (a) It is lawful for a licensee who has an all-beverages license or a resort area all-beverages
4 license to sell alcoholic beverages:

5 (i) in the building or other structural premises constituting the primary indoor lodging quarters of a
6 hotel or other short-term lodging facility;

7 (ii) if the licensee's premises include a swimming pool, in a permanent, licensed alcohol service
8 structure in the swimming pool area separate from the main licensed premises;

9 (iii) if the licensee's premises include a ski hill, in up to two permanent, licensed alcohol service
10 structures separate from the main licensed premises within the exterior boundaries of the same premises that
11 are owned, leased, or otherwise under the control of and operated by the same property owner, licensee, and if
12 applicable, concessionaire;

13 (iv) if the licensee's premises include a golf course, the premises in addition to the main licensed
14 premises may include:

15 (A) the building or alcohol service structure constituting the clubhouse or primary recreational
16 quarters of the golf course that is separate from the main licensed premises; and

17 (B) the outdoor area within the boundaries of the golf course.

18 (b) Buildings or structural premises allowed under this subsection (4) may be separate from the
19 building comprising the main licensed premises but must otherwise meet the premises suitability requirements
20 of 16-3-311. The licensee shall pay an application fee of \$100 for each area allowed under this subsection (4).

21 (5) (a) It is lawful for a licensee who has an all-beverages license or has a retail license issued
22 under 16-4-105 to sell and serve alcoholic beverages for which the licensee is licensed at a guest ranch as
23 defined in 16-1-106. The guest ranch must be owned by the licensee or by a concessionaire with which the
24 licensee has a concession agreement under 16-4-418. For a license operated at a guest ranch, alcoholic
25 beverages may be served anytime within the outdoor portions of the licensed premises and in one permanent
26 building at any time during the hours allowed under 16-3-304.

27 (b) An applicant or licensee desiring to operate a license as described in this subsection (5) shall

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1 submit to the department a premises floorplan that describes the premises as a guest ranch and depicts both
2 the indoor and outdoor portions of the premises. The floorplan must be submitted to the department as part of a
3 license application or as part of a premises alteration request as described in 16-3-311(2).

4 (c) A license operated at a guest ranch is subject to the requirements that are applicable to retail
5 licenses generally, including the premises suitability provisions of 16-3-311, except that:

6 (i) the premises may include any number of temporary, mobile, or partial structures, including but
7 not limited to tents, teepees, yurts, picnic shelters, recreational vehicles, wagons, trailers, or any other
8 structures that are not permanent buildings, provided that all temporary, mobile, or partial structures may not be
9 used for alcohol storage purposes unless approved by the department, and may only be used for alcohol
10 service and consumption if they remain within the licensee's approved outdoor premises area;

11 (ii) the premises may include any outdoor areas in which the licensee or concessionaire has
12 possessory interest, which may be demonstrated by property ownership records, a lease agreement, a
13 concession agreement, or other evidence of possessory interest acceptable to the department;

14 (iii) the premises may be separated by roadways, waterways, natural barriers, or fence lines if the
15 premises are otherwise contiguous;

16 (iv) a perimeter barrier is not required if the property line is otherwise marked; and

17 (v) the premises may be identified on the license by legal description rather than by building
18 address.

19 (d) For the purposes of this subsection (5), the term "permanent building" means a fixed,
20 nonmobile structure with floor-to-ceiling exterior walls, a full roof, electrical wiring, and plumbing fixtures."

21
22 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

23 - END -