

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; AMENDING SECTIONS 16-1-106, AND 16-3-302, AND 16-3-311, MCA; AND  
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11

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

13 **"16-1-106. Definitions.** As used in this code, the following definitions apply:

- 14 (1) "Agency franchise agreement" means an agreement between the department and a person  
15 appointed to sell liquor and table wine as a commission merchant rather than as an employee.
- 16 (2) "Agency liquor store" means a store operated under an agency franchise agreement in  
17 accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises  
18 consumption.
- 19 (3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
- 20 (4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink  
21 that contains more than 0.5% of alcohol by volume.
- 22 (5) (a) "Beer" means:  
23 (i) a malt beverage containing not more than 8.75% of alcohol by volume; or  
24 (ii) an alcoholic beverage containing not more than 14% alcohol by volume:  
25 (A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both,  
26 in potable brewing water, of malted cereal grain; and  
27 (B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived

**Amendment - 1st Reading/2nd House-blue - Requested by: Jason Small - Free Conference Committee on HB 539**

- 2023

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Drafter: Jameson Walker, 406-444-3722

HB0539.003.006

1           (i) IN THE BUILDING OR OTHER STRUCTURAL PREMISES CONSTITUTING THE PRIMARY INDOOR LODGING  
2 QUARTERS OF A HOTEL OR OTHER SHORT-TERM LODGING FACILITY;  
3           (ii) IF THE LICENSEE'S PREMISES INCLUDE A SWIMMING POOL, IN A PERMANENT, LICENSED ALCOHOL  
4 SERVICE STRUCTURE IN THE SWIMMING POOL AREA SEPARATE FROM THE MAIN LICENSED PREMISES;  
5           (iii) IF THE LICENSEE'S PREMISES INCLUDE A SKI HILL, IN UP TO TWO PERMANENT, LICENSED ALCOHOL  
6 SERVICE STRUCTURES SEPARATE FROM THE MAIN LICENSED PREMISES WITHIN THE EXTERIOR BOUNDARIES OF THE SAME  
7 PREMISES THAT ARE OWNED, LEASED, OR OTHERWISE UNDER THE CONTROL OF AND OPERATED BY THE SAME PROPERTY  
8 OWNER, LICENSEE, AND IF APPLICABLE, CONCESSIONAIRE;  
9           (iv) IF THE LICENSEE'S PREMISES INCLUDE A GOLF COURSE, THE PREMISES IN ADDITION TO THE MAIN  
10 LICENSED PREMISES MAY INCLUDE:  
11           (A) THE BUILDING OR ALCOHOL SERVICE STRUCTURE CONSTITUTING THE CLUBHOUSE OR PRIMARY  
12 RECREATIONAL QUARTERS OF THE GOLF COURSE THAT IS SEPARATE FROM THE MAIN LICENSED PREMISES; AND  
13           (B) THE OUTDOOR AREA WITHIN THE BOUNDARIES OF THE GOLF COURSE.  
14           (B) BUILDINGS OR STRUCTURAL PREMISES ALLOWED UNDER THIS SUBSECTION (5) MAY BE SEPARATE  
15 FROM THE BUILDING COMPROMISING THE MAIN LICENSED PREMISES BUT MUST OTHERWISE MEET THE PREMISES  
16 SUITABILITY REQUIREMENTS OF 16-3-311. THE LICENSEE SHALL PAY AN APPLICATION FEE OF \$100 FOR EACH AREA  
17 ALLOWED UNDER THIS SUBSECTION (5)."

18  
19           **SECTION 3. SECTION 16-3-311, MCA, IS AMENDED TO READ:**

20           **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may  
21 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages, except as  
22 otherwise allowed in 16-3-302(5). The licensed retailer must demonstrate that it has adequate control over all  
23 alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are  
24 actually or apparently intoxicated. Except as provided in subsection (8), the premises must be separated from  
25 the rest of the building by permanent walls but may have inside access to the rest of the building at all times  
26 even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in  
27 which the alcoholic beverages are served. A licensee may lease the kitchen or another specified area to allow

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1 another business entity to operate a business within its premises without permanent floor-to-ceiling walls and  
2 without a concession agreement if the other business does not take orders for, serve, or deliver alcohol and has  
3 a separate point of sale system. If the premises are located in a portion of a building, the licensed retailer must  
4 be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic  
5 beverages after hours, either by the presence of a lockable door or other security features such as rolling gates,  
6 locking cabinets, tap locks, or key card access.

7 (b) A resort retail all-beverages licensee, ~~or a retail all-beverages licensee,~~ or an on-premises  
8 consumption beer and wine licensee within the boundaries of a resort area may also utilize ~~an~~ up to three  
9 alternate alcoholic beverage storage ~~facility~~ facilities as allowed in 16-4-213(8).

10 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent  
11 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the  
12 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.  
13 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved  
14 alteration due to modifications required for approval by other state or local government entities, such as  
15 compliance with fire or building codes, the department must be notified, but preapproval is not required for  
16 these modifications. An alteration for the purposes of this section is any structural change in a premises that  
17 does not increase the square footage of the existing approved premises. An alteration that increases the  
18 square footage of the existing approved premises must be approved by the department prior to beginning the  
19 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an  
20 alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the  
21 inspections by local government agencies may not be required for department approval.

22 (3) The interior portion of the licensed premises must be a continuous area that is under the  
23 control of the licensee and not interrupted by any area in which the licensee does not have adequate control,  
24 and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants  
25 in order to allow patrons to access other tenant businesses or private dwellings in the same building, including  
26 but not limited to entryways, hallways, stairwells, and elevators.

27 (4) The premises may include one or more exterior patios or decks as long as sufficient physical

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1 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional  
2 perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and  
3 impedes foot traffic.

4 (5) Premises suitability does not include a minimum number of seats.

5 (6) A licensed on-premises retailer may apply to the department to have a noncontiguous storage  
6 area that is under the control of the licensed on-premises retailer approved for ~~onsite~~ alcoholic beverage  
7 storage, either onsite separate from its service area or offsite within 10 miles of the premises as long as the  
8 licensed on-premises retailer demonstrates that there are adequate safeguards in place to prevent public  
9 access to alcoholic beverages after hours, either by the presence of a lockable door or other security features  
10 such as rolling gates, locking cabinets, tap locks, or key card access. Alcohol stored at an offsite noncontiguous  
11 storage area must be transported only by the licensee or the licensee's employees who are 21 years of age or  
12 older. The application fee is \$100. On department approval, an on-premises consumption retailer's keg storage  
13 and beer lines running into the licensed premises may be in a noncontiguous storage area provided that the  
14 licensee is able to maintain control and adequate safeguards are in place to prevent public access.

15 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the  
16 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the  
17 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the  
18 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent  
19 underage service. The application fee is \$100. Licensees may receive alcohol deliveries at a noncontiguous  
20 storage area.

21 (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the  
22 licensees are able to maintain control of their respective premises through adequate physical separation.

23 (9) (a) For the purposes of this section, "adequate physical separation" means:

24 (i) the premises of the retailer and the premises of the brewery or winery are secured after  
25 business hours from each other and from any other business, including but not limited to prohibiting a customer  
26 from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of  
27 operation as specified in 16-3-213(2)(b); and

