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HOUSE BILL NO. 539

INTRODUCED BY K. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS; ALLOWING AN ALCOHOLIC BEVERAGES LICENSEE TO OPERATE A GUEST RANCH ~~OR SIMILAR BUSINESS~~ AND SERVE ALCOHOL AT THE PREMISES; REVISING DEFINITIONS; REVISING LAWS RELATED TO LICENSE LAPSE; AMENDING SECTIONS 16-1-106, ~~AND 16-3-302,~~ AND 16-3-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

1 \$100. On department approval, an on-premises consumption retailer's keg storage and beer lines running into
2 the licensed premises may be in a noncontiguous storage area provided that the licensee is able to maintain
3 control and adequate safeguards are in place to prevent public access.

4 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the
5 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the
6 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the
7 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent
8 underage service. The application fee is \$100.

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

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

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

16 (ii) the separation may include doors, gates, or windows that may be left open during business
17 hours.

18 (b) The term does not require permanent floor-to-ceiling walls."
19

20 **COORDINATION SECTION. Section 4. Coordination instruction.** If both House Bill No. 164 and
21 [this act] are passed and approved and both contain a section that amends 16-1-106 to provide a definition for
22 the term "guest ranch", then [section 1 of this act], amending 16-1-106, is void.
23

24 **COORDINATION SECTION. Section 5. Coordination instruction.** If both Senate Bill No. 75 and
25 [this act] are passed and approved and both contain a section that amends 16-3-302, then the sections
26 amending 16-3-302 are void and 16-3-302 must be amended as follows:

27 **"16-3-302. Sale by retailer for consumption on premises.** (1) It is lawful for a licensed retailer to
28 sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the

1 retailer.

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

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

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

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

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

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

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

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

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

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

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

27 (b) Buildings or structural premises allowed under this subsection (4) may be separate from the
28 building comprising the main licensed premises but must otherwise meet the premises suitability requirements

1 of 16-3-311. The licensee shall pay an application fee of \$100 for each area allowed under this subsection (4).

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

8 (b) An applicant or licensee desiring to operate a license as described in this subsection (5) shall
9 submit to the department a premises floorplan that describes the premises as a guest ranch and depicts both
10 the indoor and outdoor portions of the premises. The floorplan must be submitted to the department as part of a
11 license application or as part of a premises alteration request as described in 16-3-311(2).

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

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

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

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

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

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

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