

HOUSE BILL NO. 112

INTRODUCED BY T. FUREY

BY REQUEST OF THE DEPARTMENT OF REVENUE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT ALCOHOLIC BEVERAGE LICENSEES AND

6 THEIR EMPLOYEES AND AGENTS ASK FOR IDENTIFICATION FROM PERSONS WHO REASONABLY

7 COULD BE UNDERAGE; SPECIFYING THE TYPES OF DOCUMENTS THAT MAY BE USED TO ESTABLISH

8 PROOF OF AGE; PROHIBITING ALL PERSONS IN ALL CIRCUMSTANCES FROM PROVIDING ALCOHOLIC

9 BEVERAGES IN INTOXICATING QUANTITIES TO UNDERAGE PERSONS; PROVIDING THAT NO QUANTITY

10 OF AN ALCOHOLIC BEVERAGE MAY BE PROVIDED TO AN UNDERAGE PERSON ON THE PREMISES OF

11 A BUSINESS LICENSED OR PERMITTED TO SELL ALCOHOLIC BEVERAGES; AMENDING SECTIONS

12 16-3-301, 16-6-305, AND 16-6-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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16 **Section 1.** Section 16-3-301, MCA, is amended to read:

17 **"16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age.** (1) It

18 is unlawful for a licensed retailer to purchase or acquire beer or wine from anyone except a brewery, winery, or

19 wholesaler licensed under the provisions of this code.

20 (2) It is unlawful for a licensed retailer to transport beer or wine from one licensed premises or other

21 facility to any other licensed premises owned by the licensee.

22 (3) It is unlawful for a licensed wholesaler to purchase beer or wine from anyone except a brewery,

23 winery, or wholesaler licensed or registered under this code.

24 (4) It is unlawful for any licensee, a licensee's employee or agent, or any other person to sell, deliver,

25 or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

- 26 (a) any person under 21 years of age; or
- 27 (b) any person actually, apparently, or obviously intoxicated.

28 (5) If there is reasonable doubt as to the age of a person attempting to obtain an alcoholic beverage from

29 a licensee or licensee's employee or agent, the licensee, employee, or agent shall require the individual to

30 present at least one of the following government-issued documents bearing the individual's date of birth and a

1 photograph of the individual:

2 (a) a current driver's license issued by a state or territory of the United States or a province or territory
3 of Canada;

4 (b) a current identification card issued by a state or territory of the United States or a province or territory
5 of Canada;

6 (c) a current United States armed forces identification card;

7 (d) a valid passport;

8 (e) a current permanent resident card, commonly known as a "green card", issued by the United States
9 government;

10 (f) a current tribal identification card issued by a Montana tribal government; or

11 (g) a Montana temporary identification card or driver's license that was issued to the individual within the
12 preceding 30 days.

13 ~~(5)~~(6) Any person under 21 years of age or any other person who knowingly misrepresents the person's
14 qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with the
15 licensee and, upon conviction, is subject to the penalty provided in 45-5-624. However, nothing in this section
16 may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any
17 federal law.

18 ~~(6)~~(7) All licensees ~~must~~ shall display in a prominent place in their premises a placard, issued by the
19 department, stating fully the consequences for violations of the provisions of this code by persons under 21 years
20 of age.

21 ~~(7)~~(8) For purposes of 45-5-623 and this title, the establishment of the following facts by a person making
22 a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of innocence and
23 a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

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

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

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

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2 **Section 2.** Section 16-6-305, MCA, is amended to read:

3 **"16-6-305. Age limit for sale or provision of alcoholic beverages -- liability of provider.** (1) (a)

4 ~~Except as provided in this section, it is unlawful for any person to sell, give, or otherwise provide an alcoholic~~
 5 ~~beverage in any in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21~~
 6 ~~years of age by the . An alcoholic beverage in a nonintoxicating quantity may be provided to a person under 21~~
 7 ~~years of age by the person's parent or guardian, a physician or dentist for medicinal purposes, a licensed~~
 8 ~~pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious~~
 9 ~~observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age.~~

10 (b) ~~A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic~~
 11 ~~beverage in an intoxicating quantity to a person under 21 years of age. Notwithstanding the provisions of~~
 12 ~~subsection (1)(a), it is unlawful for any person to sell, give, or otherwise provide an alcoholic beverage in any~~
 13 ~~quantity to a person under 21 years of age on the premises of a business licensed or otherwise permitted under~~
 14 ~~this code to sell alcoholic beverages or on the premises of an agency liquor store. It is unlawful for a person~~
 15 ~~under 21 years of age to consume any alcoholic beverage in any quantity on the premises of a business licensed~~
 16 ~~or otherwise permitted under this code to sell alcoholic beverages.~~

17 (c) For the purposes of this section, ~~an alcoholic beverage is provided in a quantity greater than a~~
 18 ~~"intoxicating "nonintoxicating quantity" means a if the quantity of an alcoholic beverage that is sufficient to~~
 19 ~~produce:~~

20 (i) a blood, breath, or urine alcohol concentration in excess of 0.05; or

21 (ii) substantial or visible mental or physical impairment.

22 (2) A person is guilty of a misdemeanor who:

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

25 (b) permits ~~the a~~ a person in a public place where an alcoholic beverage is sold to ~~treat~~ provide, give, or
 26 purchase alcoholic beverages for ~~the a~~ a person who is under 21 years of age; or

27 (c) holds out ~~the a~~ a person who is under 21 years of age to be 21 years of age or older to the owner of
 28 the establishment or to the owner's employee.

29 (3) It is unlawful for any person to fraudulently misrepresent the person's age to any dispenser of
 30 alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any

1 identification card, including a tribal identification card.

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

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8 **Section 3.** Section 16-6-314, MCA, is amended to read:

9 **"16-6-314. Penalty for violating code -- revocation of license -- penalty for violation by underage**

10 **person.** (1) A person who violates a provision of this code is guilty of a misdemeanor punishable as provided in
11 46-18-212, except as otherwise provided in this section.

12 (2) If a retail licensee is convicted of an offense under this code, the licensee's license must be
13 immediately revoked or, in the discretion of the department, another sanction must be imposed as provided under
14 16-4-406.

15 (3) A person under 21 years of age who violates 16-3-301~~(5)~~(6) or ~~16-6-305(3)~~ 16-6-305(1)(b) or (3) is
16 subject to the penalty provided in 45-5-624(2) or (3). (See compiler's comments for contingent termination of
17 certain text.)"

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19 NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured,
20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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22 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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