

1 HOUSE BILL NO. 98

2 INTRODUCED BY E. BUTTREY

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AIRPORT ALCOHOLIC BEVERAGES LICENSES
6 RELATING TO PREMISES SUITABILITY; REVISING REQUIREMENTS FOR AIRPORT ALCOHOL
7 LICENSES; REQUIRING SAFEGUARDS; AMENDING SECTION 16-3-311, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

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

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12 **Section 1.** Section 16-3-311, MCA, is amended to read:

13 **"16-3-311. Suitable premises for licensed retail establishments.** (1) (a) A licensed retailer may
14 use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The licensed
15 retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service,
16 service to underage persons, and service to persons who are actually or apparently intoxicated. Except as
17 provided in ~~subsection~~ subsections (8) and (10), the premises must be separated from the rest of the building
18 by permanent walls but may have inside access to the rest of the building at all times even if the businesses or
19 uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic
20 beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to
21 demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after
22 hours, either by the presence of a lockable door or other security features such as rolling gates, locking
23 cabinets, tap locks, or key card access.

24 (b) A resort retail all-beverages licensee or a retail all-beverages licensee within the boundaries of
25 a resort area may also utilize an alternate alcoholic beverage storage facility as allowed in 16-4-213(8).

26 (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent
27 with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the
28 proposed alteration for the licensed premises to the department within 7 days of beginning the alteration.

1 Department approval may not be unreasonably withheld. If the completed alteration differs from the approved
2 alteration due to modifications required for approval by other state or local government entities, such as
3 compliance with fire or building codes, the department must be notified, but preapproval is not required for
4 these modifications. An alteration for the purposes of this section is any structural change in a premises that
5 does not increase the square footage of the existing approved premises. An alteration that increases the
6 square footage of the existing approved premises must be approved by the department prior to beginning the
7 alteration. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an
8 alteration under this section.

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

14 (4) The premises may include one or more exterior patios or decks as long as sufficient physical
15 safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional
16 perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and
17 impedes foot traffic.

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

19 (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is
20 under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its
21 service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to
22 prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other
23 security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is
24 \$100.

25 (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the
26 department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the
27 prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the
28 property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent

1 underage service. The application fee is \$100.

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

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

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

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

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

12 (10) A public airport all-beverages licensee, licensed pursuant to 16-4-208, or the Yellowstone
13 airport beer and wine licensee, licensed pursuant to 16-4-304, may use the airport terminal or part of the
14 terminal as premises licensed for the on-premises consumption of alcoholic beverages without regard to other
15 businesses or uses in the terminal. The airport licensee must be able to demonstrate that there are adequate
16 safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a
17 lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access."

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19 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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