



AN ACT GENERALLY PROVIDING FOR THE TRAINING OF PERSONS SELLING OR SERVING ALCOHOLIC BEVERAGES; PROVIDING A PENALTY; REQUIRING CONSIDERATION OF MITIGATING CIRCUMSTANCES; PROVIDING FOR RULEMAKING; AND PROVIDING THAT THE DEPARTMENT OF REVENUE HAS SOLE JURISDICTION FOR THE TRAINING PROGRAM.

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

Section 1. Short title. [Sections 1 through 9] may be cited as the "Responsible Alcohol Sales and Service Act".

Section 2. Legislative intent. It is the intent of [sections 1 through 9] that retail establishments and manufacturers licensed to sell or serve alcoholic beverages to the public ensure that all licensees and their employees that sell or serve alcoholic beverages are appropriately trained to comply with state law prohibiting the sale or service of alcoholic beverages to persons under 21 years of age and to persons who are intoxicated. [Sections 1 through 9] do not apply to special permits issued under 16-4-301.

Section 3. Definition. As used in [sections 1 through 9], "licensee" means a person or entity licensed by the department to sell alcoholic beverages at retail for either on-premises or off-premises consumption.

Section 4. Notification -- violation -- penalty. (1) A licensee shall certify annually on its license renewal form that the licensee is in compliance with the provisions of [sections 1 through 9].

(2) A license renewal form that falsely includes information that the licensee and all employees have been trained pursuant to [sections 1 through 9] is a violation of this code.

(3) If, after an investigation under 16-4-406, a licensee is determined to have violated subsection (2), the licensee must be assessed an administrative penalty under 16-4-406 or the penalty for false swearing under 45-7-202.

Section 5. Licensees required to ensure training. A licensee shall:

(1) require each employee who is authorized to sell or serve alcoholic beverages in the normal course of employment and the employee's immediate supervisor to successfully complete training to ensure compliance with state law regarding the sale and service of alcoholic beverages. The training must be completed within 60 days of the employee's date of hire and every 3 years after the employee's initial training.

(2) maintain employment records verifying employee completion of the training required in subsection (1).

Section 6. Responsible server and sales training program. (1) The department shall certify all server and sales training programs that include the following:

- (a) effects of alcohol on the human body;
 - (b) information, including criminal, civil, and administrative penalties, related to 27-1-710 and this code;
 - (c) procedures for checking identification;
 - (d) procedures for gathering proper documentation that may affect the licensee's liability;
 - (e) training for skills to handle difficult situations and to learn evaluation techniques regarding intoxicated persons or others that pose potential liability;
 - (f) a final test; and
 - (g) a certificate of completion, which must be provided to participants who pass the final test.
- (2) The department may not provide a responsible server and sales training program.

Section 7. Jurisdiction. The implementation and enforcement of any mandatory server and sales training programs in this state is under the exclusive authority and jurisdiction of the department.

Section 8. Penalty. (1) A licensee found as a result of a routine check for compliance with 16-3-301, 16-6-304, or 16-6-305 to be out of compliance with [section 5] shall pay a \$50 penalty for a first offense, a \$200 penalty for a second offense, and a \$350 penalty for a third offense in a 3-year period. The fine must be paid to the department and deposited in the enterprise fund to the credit of the department for administration of [sections 1 through 9].

(2) The department shall consider the following as mitigating circumstances before taking an action pursuant to 16-4-406 against a licensee who is not in compliance with the provisions of [sections 1 through 9]:

- (a) the licensee's prior violation history;
- (b) the licensee's good faith effort to prevent a violation;
- (c) the existence of written policies governing employee conduct; and
- (d) whether the evidence of a violation was based solely on the investigating authority creating an opportunity for the violation rather than on complaints received or observed misconduct.

Section 9. Rulemaking. The department shall adopt rules to implement the provisions of [sections 1 through 9].

Section 10. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 11. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 16, chapter 4, and the provisions of Title 16, chapter 4, apply to [sections 1 through 9].

- END -

I hereby certify that the within bill,
SB 0029, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 29

INTRODUCED BY L. MOSS

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

AN ACT GENERALLY PROVIDING FOR THE TRAINING OF PERSONS SELLING OR SERVING ALCOHOLIC BEVERAGES; PROVIDING A PENALTY; REQUIRING CONSIDERATION OF MITIGATING CIRCUMSTANCES; PROVIDING FOR RULEMAKING; AND PROVIDING THAT THE DEPARTMENT OF REVENUE HAS SOLE JURISDICTION FOR THE TRAINING PROGRAM.