

HOUSE JOINT RESOLUTION NO. 44

INTRODUCED BY TROPILA, GERKE, MOORE, FABREGA

IN THE HOUSE

February 15, 1979	Introduced and referred to Committee on Taxation.
March 19, 1979	Committee recommend bill do pass as amended. Report adopted.
March 20, 1979	Printed and placed on members' desks.
March 21, 1979	Second reading, do pass. Considered correctly engrossed.
March 22, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

March 23, 1979	Introduced and referred to Committee on Judiciary.
March 30, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 31, 1979	Second reading, concurred in.
April 3, 1979	Third reading, not concurred in as amended.

IN THE HOUSE

April 4, 1979	Returned from second house. Not concurred in as amended.
April 5, 1979	On motion, request of Senate granted for return of HJR No. 44 for further consideration.

IN THE SENATE

April 6, 1979

Returned from House and placed on third reading for further consideration.

April 7, 1979

Third reading, concurred in as amended.

IN THE HOUSE

April 10, 1979

Returned from second house. Concurred in as amended.

April 11, 1979

Second reading, amendments adopted.

April 12, 1979

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

House JOINT RESOLUTION NO. 44
INTRODUCED BY *Rep. Bob Mann*

1 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
2 REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THE
3 DEPARTMENT OF REVENUE TO AMEND SECTIONS 42-2.12(1)-S1250 AND
4 42-2.12(1)-S1260 OF THE ADMINISTRATIVE RULES OF MONTANA
5 GOVERNING DISTILLERY REPRESENTATIVES' ACTIVITIES SO THAT
6 THESE RULES MORE CLOSELY PARALLEL REGULATIONS OF THE FEDERAL
7 BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS GOVERNING THE SAME
8 ACTIVITIES.

9 WHEREAS, the Department of Revenue has adopted rules
10 under section 16-3-103, MCA, governing liquor vendors and
11 agents; and

12 WHEREAS, the rules as adopted contain restrictions that
13 extend beyond those adopted by the U.S. Department of the
14 Treasury, Bureau of Alcohol, Tobacco, and Firearms; and

15 WHEREAS, the Montana rules do not coincide with federal
16 regulations on proper business practices and the ethical
17 promotion of merchandise.

18 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
19 OF REPRESENTATIVES OF THE STATE OF MONTANA:

20 (1) That, under authority of section 16-3-103, MCA,

1 the Department of Revenue is directed to immediately
2 initiate proceedings to adopt rules amending sections
3 42-2.12(1)-S1250 and 42-2.12(1)-S1260, ARM, to conform those
4 rules with regulations adopted by the United States
5 Department of the Treasury, Bureau of Alcohol, Tobacco, and
6 Firearms, and particularly those rules concerning the
7 distribution of advertising specialties under 27 CFR 6.28
8 and samples under 27 CFR 6.29.

9 (2) That a proposed rule amending section
10 42-2.12(1)-S1250, ARM, contain provisions defining a sample
11 as a container of liquor presented by a vendor or agent for
12 inspection or demonstration of the quality of the product
13 and which is purchased by the employer or brokerage of the
14 vendor or agent.

15 (3) That a proposed rule amending section
16 42-2.12(1)-S1250, ARM, clearly indicate that a sample may be
17 of any size so long as the sample size is in conformance
18 with the applicable federal regulations.

19 (4) That a proposed rule amending section
20 42-2.12(1)-S1250, ARM, clarify the requirements for
21 maintenance of sample logs, specifying that such logs must
22 contain exact information as to all sample purchases,
23 including the date and location of each purchase and the
24 disposition of each sample and the name of each recipient
25 and the date he received the sample. This rule must also

1 specify the conditions under which the sample log must be
2 open to inspection by the Department including:

3 (a) a provision that it must be available 45 days
4 after a written demand by the Department;

5 (b) a provision to limit the Department to two
6 inspections a year except upon probable cause, stated by the
7 Department, that a violation has occurred with respect to
8 the vendor or agent; and

9 (c) a provision that the Department have all relevant
10 state records available to the vendor or agent for
11 inspection, review, and copying at the time the log is
12 inspected.

13 (5) That a proposed rule amending section
14 4-2-12(1)-51260, ARM, allow the vendor or agent to
15 distribute retail advertising specialties to the extent
16 allowed by applicable federal regulations.

17 (6) That the Department adopt such rules as may be
18 required from time to time to conform with regulations
19 adopted by the United States Department of the Treasury,
20 Bureau of Alcohol, Tobacco, and Firearms.

-End-

H. J. A. 44

Approved by Committee
on Taxation

HOUSE JOINT RESOLUTION NO. 44

INTRODUCED BY TROPILA, GERKE, MOORE, FABREGA

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THE DEPARTMENT OF REVENUE TO AMEND SECTIONS 42-2.12(1)-51250 AND 42-2.12(1)-51260 OF THE ADMINISTRATIVE RULES OF MONTANA GOVERNING DISTILLERY REPRESENTATIVES' ACTIVITIES SO THAT THESE RULES MORE CLOSELY PARALLEL REGULATIONS OF THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS GOVERNING THE SAME ACTIVITIES.

WHEREAS, the Department of Revenue has adopted rules under section 16-3-103, MCA, governing liquor vendors and agents; and

WHEREAS, the rules as adopted contain restrictions that extend beyond those adopted by the U.S. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms; and

WHEREAS, the Montana rules do not coincide with federal regulations on proper business practices and the ethical promotion of merchandise.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That, under authority of section 16-3-103, MCA,

the Department of Revenue is directed to immediately initiate proceedings to adopt rules amending sections 42-2.12(1)-51250 and 42-2.12(1)-51260, ARM, to conform those rules with regulations adopted by the United States Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, and particularly those rules concerning the distribution of advertising specialties under 27 CFR 6.27 AND 27 CFR 6.28 and samples under 27 CFR 6.29.

(2) That a proposed rule amending section 42-2.12(1)-51250, ARM, contain provisions defining a sample as a container of liquor presented by a vendor or agent for inspection or demonstration of the quality of the product and which is purchased by the employer or brokerage of the vendor or agent.

(3) That a proposed rule amending section 42-2.12(1)-51250, ARM, clearly indicate that a sample may be of any size so long as the sample size is in conformance with the applicable federal regulations.

(4) That a proposed rule amending section 42-2.12(1)-51250, ARM, clarify the requirements for maintenance of sample logs, specifying that such logs must contain exact information as to all sample purchases, including the date and location of each purchase and the disposition of each sample and the name of each recipient and the date he received the sample. This rule must also

1 specify--the--conditions--under--which--the--sample--tag--must--be
2 open--to--inspection--by--the--Department--including:

3 (a)--a--provision--that--it--must--be--available--45--days
4 after--a--written--demand--by--the--Department;

5 (b)--a--provision--to--limit--the--Department--to--two
6 inspections--a--year--except--upon--probable--cause--stated--by--the
7 Department--that--a--violation--has--occurred--with--respect--to
8 the--vendor--or--agent--and

9 (c)--a--provision--that--the--Department--have--all--relevant
10 state--records--available--to--the--vendor--or--agent--for
11 inspections--reviews--and--copying--at--the--time--the--tag--is
12 inspected. CONTAIN PROVISIONS:

13 (A) TO LIMIT A VENDOR TO USE AS SAMPLES NOT MORE THAN
14 24 CASES OF LIQUOR DURING ANY CALENDAR YEAR; THIS ALLOTMENT
15 INCLUDES ALL BRANDS OF LIQUOR MANUFACTURED, PRODUCED, OR
16 SOLD BY THE VENDOR; AND

17 (B) REQUIRING THAT ANY SAMPLES DISTRIBUTED TO ANY
18 LICENSEE BE REPORTED TO THE DEPARTMENT OF REVENUE LIQUOR
19 DIVISION ON A MONTHLY BASIS.

20 (5) That a proposed rule amending section
21 4-2-12(1)-51260, ARN, allow the vendor or agent to
22 distribute retail advertising specialties to the extent
23 allowed by applicable federal regulations.

24 (6) That the Department adopt such rules as may be
25 required from time to time to conform with regulations

1 adopted by the United States Department of the Treasury,
2 Bureau of Alcohol, Tobacco, and Firearms.

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(2) That a proposed rule amending section 42-2.12(1)-S1250, ARM, contain provisions defining a sample as a container of liquor presented by a vendor or agent for inspection or demonstration of the quality of the product and which is purchased by the employer or brokerage of the vendor or agent.

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(4) That a proposed rule amending section 42-2.12(1)-S1250, ARM, clarify the requirements for maintenance of sample logs, specifying that such logs must contain exact information as to all sample purchases, including the date and location of each purchase and the disposition of each sample and the name of each recipient and the date he received the sample. This rule must also

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6 inspections--a--year--except--upon--probable--cause--stated--by--the
7 Department--that--a--violation--has--occurred--with--respect--to
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9 (c)--a--provision--that--the--Department--have--all--relevant
10 state--records--available--to--the--vendor--or--agent--for
11 inspections--review--and--copying--at--the--time--the--tag--is
12 inspected. CONTAIN PROVISIONS:

13 (A) TO LIMIT A VENDOR TO USE AS SAMPLES NOT MORE THAN
14 25 CASES OF LIQUOR DURING ANY CALENDAR YEAR; THIS ALLOTMENT
15 INCLUDES ALL BRANDS OF LIQUOR MANUFACTURED, PRODUCED, OR
16 SOLD BY THE VENDOR; AND

17 (B) REQUIRING THAT ANY SAMPLES DISTRIBUTED TO ANY
18 LICENSEE BE REPORTED TO THE DEPARTMENT OF REVENUE LIQUOR
19 DIVISION ON A MONTHLY BASIS.

20 (5) That a proposed rule amending section
21 4-2-12(1)-51260, ARM, allow the vendor or agent to
22 distribute retail advertising specialties to the extent
23 allowed by applicable federal regulations.

24 (6) That the Department adopt such rules as may be
25 required from time to time to conform with regulations

1 adopted by the United States Department of the Treasury,
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5 REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THE
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4 after--a--written--demand--by--the--Department†

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16 SOLD BY THE VENDOR; AND

17 (B) REQUIRING THAT ANY SAMPLES DISTRIBUTED TO ANY
18 LICENSEE BE REPORTED TO THE DEPARTMENT OF REVENUE LIQUOR
19 INVESTIGATION DIVISION ON A MONTHLY BASIS.

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-End-

March 30, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Joint Resolution No. 44, third reading bill, be amended as follows:

1. Page 2, line 20.

Following: "4"

Insert: "2"

2. Page 3, line 18.

Following: "REVENUE"

Strike: "LIQUOR"

Insert: "investigation"