HOUSE JOINT RESOLUTION NO. 44

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INTRODUCED BY TROPILA, GERKE, MOORE, FABREGA

IN THE HOUSE

| February 15, 1979 | | Introduced and referred to Committee on Taxation. |
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| 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 SE | NATE |
| 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 HO | USE |
| 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 considera- tion. |

IN THE SENATE

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| April 6, 1979 | Returned from House and placed on third reading for further consideration. |
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| 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 |

LC 1318/01

House JOINT RESOLUTION NO. 44 INTRODUCED BY Jupile Like Man Taky 1 Z 3 4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THE 5 DEPARTMENT OF REVENUE TO AMEND SECTIONS 42-2-12(1)-51250 AND 6 42-2.12(1)-S1260 OF THE ADMINISTRATIVE RULES OF MONTANA 7 GOVERNING DISTILLERY REPRESENTATIVES' ACTIVITIES SO THAT 8 THESE RULES MORE CLOSELY PARALLEL REGULATIONS OF THE FEDERAL 9 BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS GOVERNING THE SAME 10 ACTIVITIES. 11

12

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

16 WHEREAS, the rules as adopted contain restrictions that 17 extend beyond those adopted by the U.S. Department of the 18 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.

22

23 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE 24 OF REPRESENTATIVES OF THE STATE OF MONTANA:

25 (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)-51250 and 42-2.12(1)-51260. 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 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)-51250, 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.

(3) That a proposed rule amending section
42-2.12(1)-S1250. 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 19 rule amending section 20 4-2.12(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 nurchase 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

HJA 44 -2-INTRODUCED BILL

LC 1318/01

specify the conditions under which the sample log must be
 open to inspection by the Department including:
 (a) a provision that it must be available 45 days
 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)-S1260. 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-

46th Legislature

HJR 0044702

Approved by Committee on Taxation

| 1 | HOUSE JOINT RESOLUTION NO. 44 |
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| 2 | INTRODUCED BY TROPILA, GERKE, MOORE, FABREGA |
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| 5 | REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THE |
| 5 | DEPARTMENT OF REVENUE TO AMEND SECTIONS 42-2.12(1)-51250 AND |
| ۲ | 42-2+12(1)-51250 OF THE ADMINISTRATIVE RULES OF MONTANA |
| 8 | GOVERNING DISTILLERY REPRESENTATIVES ACTIVITIES SO THAT |
| 9 | THESE RULES MORE CLOSELY PARALLEL REGULATIONS OF THE FEDERAL |
| 10 | BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS GOVERNING THE SAME |
| 11 | ACTIVITIES. |

12

13 WHEREAS, the Department of Revenue has adopted rules 14 under section 16-3-103, MCA, governing liquor vendors and 15 16 agents; and

WHEREAS, the rules as adopted contain restrictions that 17 extend beyond those adopted by the U+S+ Department of the 18 Treasury, Bureau of Alcohol, Tobacco, and Firearms; and 19

WHEREAS, the Nontana rules do not coincide with federal 20 regulations on proper business practices and the ethical 21 promotion of merchandise. 22

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NOW+ THEREFORE+ BE IT RESOLVED BY THE SENATE AND THE HOUSE 24 OF REPRESENTATIVES OF THE STATE OF MONTANA: 25

(1) That, under authority of section 16-3-103, MCA+ 26

Department of Revenue is directed to immediately ł the initiate proceedings to adopt rules amending sections 2 42-2-12(11-51250 and 42-2-12(1)-51260+ ARM+ to conform those ٦ rules with regulations adopted by the United States 4 5 Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, and particularly those rules concerning the 6 7 distribution of advertising specialties under 27_CER_6_27 AND 27 (FR 6.28 and samples under 27 CFR 6.29. я

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 inspection or demonstration of the quality of the product 12 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)-51250: APM, clearly indicate that a sample may be of any size so long as the sample size is in conformance 17 18 with the applicable federal regulations.

19 (4) That a proposed rule amending section 20 4-2+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 disposition of mach sample and the name of each recipient 24 and the date he received the sample. This rule must also 25

> -2-HJ8 44 SECOND READING

| 1 | specifytheconditionsundor-which-the-sample-log-must-be |
|----|--|
| Z | apen-to-inspection-by-the-Bepartment-including+ |
| 3 | f8}a-provision-that-itsustbesvsiinbie45days |
| 4 | after-s-written-demond-by-the-Department; |
| 5 | fb;oprov;s;onto};m;ttheBepartmenttotwo |
| 6 | inspections-a-year-except-upon-probable-causar-stated-by-the |
| 7 | Bepartmenty-that-a-violation-hos-occurredwithrespectto |
| 8 | the-vendor-or-agent;-and |
| 9 | tc;sprovision-that-the-Bepartment-have-sij-rejevant |
| 10 | staterecordsevoitabletothevendororagentfor |
| 11 | inspectionyreviewyandcopyingatthetime-the-iog-is |
| 12 | inspected. <u>CONIAIN_PROVISIONS:</u> |
| 13 | (A)_IQ_LIMIT_A_YENDOB_IQ_USE_AS_SAMPLES_NOI_MOREIMAN |
| 14 | 24CASES_OF_LIQUOB_DUBING_ANY_CALENDAB_YEAR:_IHIS_ALLOIMENI |
| 15 | INCLUDES_ALL_BRANDS_DELIQUOPBANYEACTURED:_PRODUCED:_D8 |
| 16 | SOLD_BX_THE_YENOOR1_AND |
| 17 | (B)BEQUIRINGTHAIANYSAMPLESDISIBIBUTEDTO_ANY |
| 18 | LICENSEE BE REPORTED TO THE DEPARTMENT DE REVENUE LIQUOR |
| 19 | CIVISION_ON_A_MONIHLY_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.

-End-

HOUSE JOINT RESOLUTION NO. 44 1 INTRUDUCED BY TROPILA, GERKE, MOORE, FABREGA 2 3 A JUINT RESOLUTION OF THE SENATE AND THE HOUSE OF 4 REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THE 5 DEPARTMENT OF REVENUE TO AMEND SECTIONS 42-2-12(1)-51250 AND -6 42-2.12(1)-S1260 OF THE ADMINISTRATIVE RULES OF MONTANA 7 GOVERNING DISTILLERY REPRESENTATIVES" ACTIVITIES SO THAT 8 THESE RULES MORE CLOSELY PARALLEL REGULATIONS OF THE FEDERAL 9 BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS GOVERNING THE SAME 10 ACTIVITIES. 11 12 13 WHEREAS, the Department of Revenue has adopted rules 14 under section 16-3-103, MCA, governing liquor vendors and 15 agents; and 16 WHEREAS, the rules as adopted contain restrictions that 17 extend beyond those adopted by the U.S. Department of the 18 Treasury, Bureau of Alcohol, Tobacco, and Firearms; and 19 WHEREAS, the Montana rules do not coincide with federal 20 regulations on proper business practices and the ethical 21 promotion of marchandise. 22

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24 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE 25 OF REPRESENTATIVES OF THE STATE OF MONTANA:

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

HJR 0044/02

Department of Revenue is directed to immediately 1 tha initiate proceedings to adopt rules amending sections 2 42-2.12(1)-51250 and 42-2.12(1)-51260, ARM, to conform those 3 rules with regulations adopted by the United States 4 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_<u>CER_6e21</u> 9 AND 27 CFR 6.28 and samples under 27 CFR 6.29.

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> -2- HJR 44 THIRD READING

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HJR 44

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

-End-

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HOUSE JOINT RESOLUTION NO. 44 1 2 INTRODUCED BY TROPILA, GERKE, MOORE, FABREGA 3 A JUINT RESOLUTION OF THE SENATE AND THE HOUSE OF 4 REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING THE 5 DEPARTMENT OF REVENUE TO AMEND SECTIONS 42-2.12(1)-51250 AND 6 42-2-12(1)-S1260 OF THE ADMINISTRATIVE RULES OF MONTANA 7 GOVERNING DISTILLERY REPRESENTATIVES' ACTIVITIES SO THAT 3 9 THESE RULES MORE CLOSELY PARALLEL REGULATIONS OF THE FEDERAL BURFAU OF ALCOHOL. TOBACCO. AND FIREARMS GOVERNING THE SAME 10 11 ACTIVITIES. 12 13 WHEREAS, the Department of Revenue has adopted rules under section 16-3-103, MCA, governing liquor vendors and 14 15 agents; and 16 WHEREAS, the rules as adopted contain restrictions that 17 extend beyond those adopted by the U+S+ Department of the 18 Treasury, Bureau of Alcohol, Tobacco, and Firearms: and 19 WHEREAS, the Montana rules do not coincide with federal 20 regulations on proper business practices and the ethical 21 promotion of merchandise. 22 23 NOW+ THEREFORE+ BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: 24 25 (1) That, under authority of section 16-3-103, MCA,

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-2-

HJR 44

REFERENCE BILL

HJR 44

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-3-

HJR 0044/03

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

-End-

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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: "<u>REVENUE</u>" Strike: "<u>LIQUOR</u>" Insert:

"investigation"