

SENATE BILL NO. 398

INTRODUCED BY BOYLAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on Public Health, Welfare, and Safety.
February 15, 1979	Committee recommend bill do pass. Report adopted.
February 16, 1979	Printed and placed on members' desks.
February 17, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed.
February 20, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 21, 1979	Introduced and referred to Committee on Human Services.
March 5, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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1 *Sen. Smith* BILL NO. 398  
 2 INTRODUCED BY *Donlan*  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORM CERTAIN  
 6 LIQUOR LAWS TO THE CONSTITUTIONAL AMENDMENT RAISING THE  
 7 DRINKING AGE TO 19 YEARS; AMENDING SECTIONS 16-3-301,  
 8 16-4-401, 16-5-101, 16-6-305, AND 16-6-314, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

12 "16-3-301. Unlawful purchases, sales, or deliveries.

13 (1) It shall be unlawful for a licensed retailer to purchase  
 14 or acquire beer from anyone except a brewer or wholesaler  
 15 licensed under the provisions of this code.

16 (2) It shall be unlawful for any licensee, his or her  
 17 employee or employees, or any other person to sell, deliver,  
 18 or give away or cause or permit to be sold, delivered, or  
 19 given away any alcoholic beverage to:

20 (a) any person under ~~the age of 18 years~~ 19 years of  
 21 age;

22 (b) any intoxicated person or any person actually,  
 23 apparently, or obviously intoxicated.

24 (3) Any ~~minor person under 19 years of age~~ or other  
 25 person who knowingly misrepresents his or her qualifications

1 for the purpose of obtaining an alcoholic beverage from such  
 2 licensee shall be equally guilty with said licensee and  
 3 shall, upon conviction thereof, be subject to the penalty  
 4 provided in 45-5-624; provided, however, that nothing herein  
 5 contained shall be construed as authorizing or permitting  
 6 the sale of an alcoholic beverage to any person in violation  
 7 of any federal law.

8 (4) It shall be further mandatory under the provisions  
 9 of this code that all licensees display in a prominent place  
 10 in their premises a placard as issued by the department  
 11 stating fully the consequences for violations of the  
 12 provisions of this code by persons under ~~the age of 18 years~~  
 13 19 years of age."

14 Section 2. Section 16-4-401, MCA, is amended to read:

15 "16-4-401. License as privilege -- criteria for  
 16 decision on application. A license under this code is a  
 17 privilege which the state may grant to an applicant and is  
 18 not a right to which any applicant is entitled. The  
 19 department must find in every case where it makes an order  
 20 for the issuance of a new license or for the approval of the  
 21 transfer of a license that:

22 (1) neither the applicant nor any member of his  
 23 immediate family has an ownership interest in any other  
 24 establishment licensed under this chapter for all-beverages  
 25 sales;

1 (2) the applicant or any member of his immediate  
2 family is without financing from or any affiliation to a  
3 manufacturer, bottler, or distributor of beer, wine, or  
4 liquor;

5 (3) the applicant is a resident of the state and is  
6 qualified to vote in a state election; and

7 (4) the applicant's past record and present status as  
8 a purveyor of alcoholic beverages and as a businessman and  
9 citizen demonstrate that he is likely to operate his  
10 establishment in compliance with all applicable laws of the  
11 state and local governments; and

12 ~~(5) the applicant is not under the age of 19 years.~~"

13 Section 3. Section 16-5-101, MCA, is amended to read:

14 "16-5-101. Proof of age -- identification card. All  
15 persons attaining the age of ~~18~~ 19 years may apply to the  
16 county clerk and recorder of the county in which the  
17 applicant resides for an identification card which shall  
18 prima facie establish that the applicant has reached the age  
19 of ~~18~~ 19 years."

20 Section 4. Section 16-6-305, MCA, is amended to read:

21 "16-6-305. Age limit for sale of alcoholic beverages.

22 (1) Except in the case of an alcoholic beverage given to a  
23 person under ~~the age of 18 years~~ 19 years of age by his  
24 parent or guardian for beverage or medicinal purposes or  
25 administered to him by his physician or dentist for

1 medicinal purposes or sold to him by a vendor or druggist  
2 upon the prescription of a physician, no person shall sell,  
3 give, or otherwise supply an alcoholic beverage to any  
4 person under ~~the age of 18 years~~ 19 years of age or permit  
5 any person under that age to consume an alcoholic beverage.

6 (2) Any person shall be guilty of a misdemeanor who:

7 (a) invites a person under the age of ~~18~~ 19 years into  
8 a public place where an alcoholic beverage is sold and  
9 treats, gives, or purchases an alcoholic beverage for such  
10 person;

11 (b) permits such person in a public place where an  
12 alcoholic beverage is sold to treat, give, or purchase  
13 liquor for him; or

14 (c) holds out such person to be ~~over the age of 18~~  
15 years 19 years of age or older to the owner of the  
16 establishment or his or her employee or employees."

17 Section 5. Section 16-6-314, MCA, is amended to read:

18 "16-6-314. Penalty for violating code -- revocation of  
19 license. Any person violating any of the provisions of this  
20 code shall, upon conviction thereof, be deemed guilty of a  
21 misdemeanor and punishable by such fine or imprisonment, or  
22 both, as provided in 46-18-212, except as is herein  
23 otherwise provided. If any retail licensee is convicted of  
24 any offense under this code, his license shall be  
25 immediately revoked or in the discretion of the department

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1 such other sanction imposed as may be authorized under  
2 16-4-406. Further, if any person under ~~the age of 18~~ 19  
3 years of age is convicted of an offense under this code he  
4 shall be subject to a \$100 fine or 30 days in confinement."

-End-

SB 398

1 *Spice* BILL NO. 398  
 2 INTRODUCED BY *Boyer*  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORM CERTAIN  
 6 LIQUOR LAWS TO THE CONSTITUTIONAL AMENDMENT RAISING THE  
 7 DRINKING AGE TO 19 YEARS; AMENDING SECTIONS 16-3-301,  
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 14 or acquire beer from anyone except a brewer or wholesaler  
 15 licensed under the provisions of this code.

16 (2) It shall be unlawful for any licensee, his or her  
 17 employee or employees, or any other person to sell, deliver,  
 18 or give away or cause or permit to be sold, delivered, or  
 19 given away any alcoholic beverage to:

- 20 (a) any person under ~~the age of 18 years~~ 19 years of  
 21 age;
- 22 (b) any intoxicated person or any person actually,  
 23 apparently, or obviously intoxicated.
- 24 (3) Any minor person under 19 years of age or other  
 25 person who knowingly misrepresents his or her qualifications

1 for the purpose of obtaining an alcoholic beverage from such  
 2 licensee shall be equally guilty with said licensee and  
 3 shall, upon conviction thereof, be subject to the penalty  
 4 provided in 45-5-624; provided, however, that nothing herein  
 5 contained shall be construed as authorizing or permitting  
 6 the sale of an alcoholic beverage to any person in violation  
 7 of any federal law.

8 (4) It shall be further mandatory under the provisions  
 9 of this code that all licensees display in a prominent place  
 10 in their premises a placard as issued by the department  
 11 stating fully the consequences for violations of the  
 12 provisions of this code by persons under ~~the age of 18 years~~  
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14 Section 2. Section 16-4-401, MCA, is amended to read:  
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16 decision on application. A license under this code is a  
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 18 not a right to which any applicant is entitled. The  
 19 department must find in every case where it makes an order  
 20 for the issuance of a new license or for the approval of the  
 21 transfer of a license that:

- 22 (1) neither the applicant nor any member of his  
 23 immediate family has an ownership interest in any other  
 24 establishment licensed under this chapter for all-beverages  
 25 sales;

1 (2) the applicant or any member of his immediate  
2 family is without financing from or any affiliation to a  
3 manufacturer, bottler, or distributor of beer, wine, or  
4 liquor;

5 (3) the applicant is a resident of the state and is  
6 qualified to vote in a state election; and

7 (4) the applicant's past record and present status as  
8 a purveyor of alcoholic beverages and as a businessman and  
9 citizen demonstrate that he is likely to operate his  
10 establishment in compliance with all applicable laws of the  
11 state and local governments; and

12 ~~(5) the applicant is not under the age of 19 years."~~

13 Section 3. Section 16-5-101, MCA, is amended to read:

14 "16-5-101. Proof of age -- identification card. All  
15 persons attaining the age of ~~18~~ 19 years may apply to the  
16 county clerk and recorder of the county in which the  
17 applicant resides for an identification card which shall  
18 prima facie establish that the applicant has reached the age  
19 of ~~18~~ 19 years."

20 Section 4. Section 16-6-305, MCA, is amended to read:

21 "16-6-305. Age limit for sale of alcoholic beverages.

22 (1) Except in the case of an alcoholic beverage given to a  
23 person under the age of ~~18~~ 19 years of age by his  
24 parent or guardian for beverage or medicinal purposes or  
25 administered to him by his physician or dentist for

1 medicinal purposes or sold to him by a vendor or druggist  
2 upon the prescription of a physician, no person shall sell,  
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6 (2) Any person shall be guilty of a misdemeanor who:

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9 treats, gives, or purchases an alcoholic beverage for such  
10 persons;

11 (b) permits such person in a public place where an  
12 alcoholic beverage is sold to treat, give, or purchase  
13 liquor for him; or

14 (c) holds out such person to be over-the-age-of-~~18~~  
15 years 19 years of age or older to the owner of the  
16 establishment or his or her employee or employees."

17 Section 5. Section 16-6-314, MCA, is amended to read:

18 "16-6-314. Penalty for violating code -- revocation of  
19 license. Any person violating any of the provisions of this  
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