

SENATE BILL NO. 98

1/11 Introduced  
1/11 Referred to Judiciary  
1/15 Hearing  
1/18 Tabled in Committee

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*Senate* BILL NO. 98  
INTRODUCED BY *C. ...*  
BY REQUEST OF THE DEPARTMENT OF HIGHWAYS

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE LEGAL AGE FOR CONSUMING AND POSSESSING ALCOHOLIC BEVERAGES FROM 19 YEARS TO 21 YEARS TO IMPLEMENT A PROPOSED AMENDMENT TO THE MONTANA CONSTITUTION PERMITTING THE LEGISLATURE TO ESTABLISH 21 YEARS AS THE LEGAL DRINKING AGE; PROVIDING THAT THIS ACT IS NOT EFFECTIVE UNLESS SUCH CONSTITUTIONAL AMENDMENT IS APPROVED BY THE ELECTORATE; AMENDING SECTIONS 16-3-301, 16-4-401, 16-6-305, 16-6-314, 45-5-623, AND 45-5-624, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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

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

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

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

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

(a) any person under 19 21 years of age;

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

(3) Any person under 19 21 years of age or other person who knowingly misrepresents his or her qualifications for the purpose of obtaining an alcoholic beverage from such licensee shall be equally guilty with said licensee and shall, upon conviction thereof, be subject to the penalty provided in 45-5-624; provided, however, that nothing herein contained shall be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any federal law.

(4) It shall be further mandatory under the provisions of this code that all licensees display in a prominent place in their premises a placard as issued by the department stating fully the consequences for violations of the provisions of this code by persons under 19 21 years of age."

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

"16-4-401. License as privilege -- criteria for decision on application. (1) A license under this code is a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in subsection (6), in the case of a license that permits on-premises consumption, the department must find in every case in which it makes an



1 order for the issuance of a new license or for the approval  
2 of the transfer of a license that:

3 (a) in the case of an individual applicant:

4 (i) the applicant will not possess an ownership  
5 interest in more than one establishment licensed under this  
6 chapter for all-beverages sales;

7 (ii) the applicant or any member of his immediate  
8 family is without financing from or any affiliation to a  
9 manufacturer, bottler, or distributor of beer, wine, or  
10 liquor;

11 (iii) the applicant is a resident of the state and is  
12 qualified to vote in a state election;

13 (iv) the applicant's past record and present status as  
14 a purveyor of alcoholic beverages and as a businessman and  
15 citizen demonstrate that he is likely to operate his  
16 establishment in compliance with all applicable laws of the  
17 state and local governments; and

18 (v) the applicant is not under the age of 19 21 years;  
19 and

20 (b) in the case of a corporate applicant:

21 (i) the owners of at least 51% of the outstanding  
22 stock meet the requirements of subsection (2)(a)(iii);

23 (ii) each owner of 10% or more of the outstanding stock  
24 meets the requirements for an individual applicant listed in  
25 subsection (2)(a) of this section;

1 (iii) the corporation is authorized to do business in  
2 Montana; and

3 (iv) in the case of a corporation not listed on a  
4 national stock exchange, each owner of stock meets the  
5 requirements of subsection (2)(a)(i).

6 (3) In the case of a license that permits only  
7 off-premises consumption, the department must find in every  
8 case in which it makes an order for the issuance of a new  
9 license or for the approval of the transfer of a license  
10 that:

11 (a) in the case of an individual applicant:

12 (i) the applicant will not possess an ownership  
13 interest in more than one establishment licensed under this  
14 chapter for all-beverages sales;

15 (ii) the applicant or any member of his immediate  
16 family is without financing from or any affiliation to a  
17 manufacturer, bottler, or distributor of beer, wine, or  
18 liquor;

19 (iii) the applicant has not been convicted of a felony  
20 or, if the applicant has been convicted of a felony, his  
21 rights have been restored;

22 (iv) the applicant's past record and present status as  
23 a purveyor of alcoholic beverages and as a businessman and  
24 citizen demonstrate that he is likely to operate his  
25 establishment in compliance with all applicable laws of the

1 state and local governments; and  
 2 (v) the applicant is not under the age of ~~19~~ 21 years;  
 3 and  
 4 (b) in the case of a corporate applicant:  
 5 (i) the owners of at least 51% of the outstanding  
 6 stock meet the requirements of subsection (3)(a)(iii);  
 7 (ii) each owner of 10% or more of the outstanding stock  
 8 meets the requirements for an individual listed in  
 9 subsection (3)(a) of this section; and  
 10 (iii) the corporation is authorized to do business in  
 11 Montana.  
 12 (4) In the case of a license that permits the  
 13 manufacture or wholesaling of an alcoholic beverage, the  
 14 department must find in every case in which it makes an  
 15 order for the issuance of a new license or for the approval  
 16 of the transfer of a license that:  
 17 (a) in the case of an individual applicant:  
 18 (i) the applicant has no ownership interest in any  
 19 establishment licensed under this chapter for retail  
 20 alcoholic beverages sales;  
 21 (ii) the applicant has not been convicted of a felony  
 22 or, if the applicant has been convicted of a felony, his  
 23 rights have been restored;  
 24 (iii) the applicant's past record and present status as  
 25 a purveyor of alcoholic beverages and as a businessman and

1 citizen demonstrate that he is likely to operate his  
 2 establishment in compliance with all applicable laws of the  
 3 state and local governments;  
 4 (iv) the applicant is not under the age of ~~19~~ 21 years;  
 5 and  
 6 (v) an applicant for a wholesale license is neither a  
 7 manufacturer of an alcoholic beverage nor is owned or  
 8 controlled by a manufacturer of an alcoholic beverage; and  
 9 (b) in the case of a corporate applicant:  
 10 (i) the owners of at least 51% of the outstanding  
 11 stock meet the requirements of subsection (4)(a)(ii);  
 12 (ii) each owner of 10% or more of the outstanding stock  
 13 meets the requirements for an individual listed in  
 14 subsection (4)(a) of this section;  
 15 (iii) an applicant for a wholesale license is neither a  
 16 manufacturer of an alcoholic beverage nor is owned or  
 17 controlled by a manufacturer of an alcoholic beverage; and  
 18 (iv) the corporation is authorized to do business in  
 19 Montana.  
 20 (5) In the case of a corporate applicant, the  
 21 requirements of subsections (2)(b), (3)(b), and (4)(b) apply  
 22 separately to each class of stock.  
 23 (6) The provisions of subsection (2) do not apply to  
 24 an applicant for or holder of a license pursuant to  
 25 16-4-302."

1 Section 3. Section 16-6-305, MCA, is amended to read:

2 "16-6-305. Age limit for sale of alcoholic beverages.

3 (1) Except in the case of an alcoholic beverage given to a  
4 person under 19 21 years of age by his parent or guardian  
5 for beverage or medicinal purposes or administered to him by  
6 his physician or dentist for medicinal purposes or sold to  
7 him by a vendor or druggist upon the prescription of a  
8 physician, no person shall sell, give, or otherwise supply  
9 an alcoholic beverage to any person under 19 21 years of age  
10 or permit any person under that age to consume an alcoholic  
11 beverage.

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

13 (a) invites a person under the age of 19 21 years into  
14 a public place where an alcoholic beverage is sold and  
15 treats, gives, or purchases an alcoholic beverage for such  
16 person;

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

20 (c) holds out such person to be 19 21 years of age or  
21 older to the owner of the establishment or his or her  
22 employee or employees.

23 (3) It is unlawful for any person to fraudulently  
24 misrepresent his or her age to any dispenser of alcoholic  
25 beverages or to falsely procure any identification card or

1 to alter any of the statements contained in any  
2 identification card."

3 Section 4. Section 16-6-314, MCA, is amended to read:

4 "16-6-314. Penalty for violating code -- revocation of  
5 license. Any person violating any of the provisions of this  
6 code shall, upon conviction thereof, be deemed guilty of a  
7 misdemeanor and punishable by such fine or imprisonment, or  
8 both, as provided in 46-18-212, except as is herein  
9 otherwise provided. If any retail licensee is convicted of  
10 any offense under this code, his license shall be  
11 immediately revoked or in the discretion of the department  
12 such other sanction imposed as may be authorized under  
13 16-4-406. Further, if any person under 19 21 years of age is  
14 convicted of an offense under this code he shall be subject  
15 to a \$100 fine or 30 days in confinement."

16 Section 5. Section 45-5-623, MCA, is amended to read:

17 "45-5-623. Unlawful transactions with children. (1) A  
18 person commits the offense of unlawful transactions with  
19 children if he knowingly:

20 (a) sells or gives explosives to a child under the age  
21 of majority except as authorized under appropriate city  
22 ordinances;

23 (b) sells or gives intoxicating substances other than  
24 alcoholic beverages to a child under the age of majority;

25 (c) sells or gives alcoholic beverages to a person

1 under ~~19~~ 21 years of age; or

2 (d) being a junk dealer, pawnbroker, or secondhand  
3 dealer, receives or purchases goods from a child under the  
4 age of majority without authorization of the parent or  
5 guardian.

6 (2) A person convicted of the offense of unlawful  
7 transactions with children shall be fined not to exceed \$500  
8 or be imprisoned in the county jail for any term not to  
9 exceed 6 months, or both. A person convicted of a second  
10 offense of unlawful transactions with children shall be  
11 fined not to exceed \$1,000 or be imprisoned in the county  
12 jail for any term not to exceed 6 months, or both."

13 Section 6. Section 45-5-624, MCA, is amended to read:

14 "45-5-624. Unlawful possession of an intoxicating  
15 substance ~~by-children~~. (1) A person under the age of 18  
16 years commits the offense of possession of an intoxicating  
17 substance if he knowingly has in his possession an  
18 intoxicating substance other than an alcoholic beverage. A  
19 person under the age of ~~19~~ 21 commits the offense of  
20 possession of an intoxicating substance if he knowingly has  
21 in his possession an alcoholic beverage, except that he does  
22 not commit the offense when in the course of his employment  
23 it is necessary to possess alcoholic beverages.

24 (2) A person convicted of the offense of possession of  
25 an intoxicating substance shall be fined not to exceed \$50

1 or be imprisoned in the county jail for any term not to  
2 exceed 10 days, or both. If proceedings are held in the  
3 youth court, the preceding penalty does not apply, and the  
4 offender shall be treated as an alleged youth in need of  
5 supervision as defined in 41-5-103(13). In such case, the  
6 youth court may enter its judgment under 41-5-523."

7 NEW SECTION. Section 7. Effective date. This act is  
8 effective January 2, 1987, only if Article II, section 14,  
9 of the Montana Constitution is amended by the electorate at  
10 the general election to be held November 4, 1986, permitting  
11 the legislature to establish 21 years as the legal age for  
12 consuming and possessing alcoholic beverages.

-End-