

1
 2 INTRODUCED BY Robert Luther Lynch
 3 Cocchiarella Sher Meridian House BILL NO. 308

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SALE OF CIDER; DEFINING "CIDER";
 5 IMPOSING A TAX ON THE IMPORTATION OR SALE OF CIDER; PROVIDING FOR THE DISTRIBUTION OF
 6 REVENUE RECEIVED FROM THE TAX ON CIDER; AUTHORIZING LICENSED TABLE WINE DISTRIBUTORS
 7 TO SELL CIDER UNDER A LICENSE TO SELL TABLE WINE; AMENDING SECTIONS 16-1-106, 16-1-411,
 8 16-3-415, AND 16-3-418, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

11
 12 **Section 1.** Section 16-1-106, MCA, is amended to read:

13 **"16-1-106. Definitions.** As used in this code, the following definitions apply:

14 (1) "Agency franchise agreement" means an agreement between the department and a person
 15 appointed to sell liquor and table wine as a commission merchant rather than as an employee.

16 (2) "Agency liquor store" means a store operated under an agency franchise agreement in
 17 accordance with this code for the purpose of selling liquor at either the posted or retail price for
 18 off-premises consumption.

19 (3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

20 (4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink
 21 that contains more than 0.5% of alcohol by volume.

22 (5) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

23 (6) "Beer importer" means a person other than a brewer who imports malt beverages.

24 (7) "Brewer" means a person who produces malt beverages.

25 (8) "Cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices
 26 of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol
 27 by volume, including but not limited to flavored, sparkling, or carbonated cider.

28 (9) "Community" means:

29 (a) in an incorporated city or town, the area within the incorporated city or town boundaries;

30 (b) in an unincorporated city or area, the area identified by the federal bureau of the census as a



1 community for census purposes; and

2 (c) in a consolidated local government, the area of the consolidated local government not otherwise
3 incorporated.

4 ~~(9)~~(10) "Department" means the department of revenue, unless otherwise specified.

5 ~~(10)~~(11) "Immediate family" means a spouse, dependent children, or dependent parents.

6 ~~(11)~~(12) "Import" means to transfer beer or table wine from outside the state of Montana into the
7 state of Montana.

8 ~~(12)~~(13) "Industrial use" means a use described as industrial use by the federal Alcohol
9 Administration Act and the federal rules and regulations of 27 CFR.

10 ~~(13)~~(14) "Liquor" means an alcoholic beverage except beer and table wine.

11 ~~(14)~~(15) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or
12 decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or
13 their parts or their products and with or without other malted cereals and with or without the addition of
14 unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or
15 without other wholesome products suitable for human food consumption.

16 ~~(15)~~(16) "Package" means a container or receptacle used for holding an alcoholic beverage.

17 ~~(16)~~(17) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor
18 licenses as fixed and determined by the department and in addition an excise and license tax as provided
19 in this code.

20 ~~(17)~~(18) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that
21 contains 50% of alcohol by volume.

22 ~~(18)~~(19) "Public place" means a place, building, or conveyance to which the public has or may be
23 permitted to have access and any place of public resort.

24 ~~(19)~~(20) "Retail price" means the price established by an agent for the sale of liquor to persons who
25 do not hold liquor licenses. The retail price may not be less than the department's posted price.

26 ~~(20)~~(21) "Rules" means rules adopted by the department or the department of justice pursuant to
27 this code.

28 ~~(21)~~(22) "State liquor warehouse" means a building owned or under control of the department for
29 the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

30 ~~(22)~~(23) "Storage depot" means a building or structure owned or operated by a brewer at any point

1 in the state of Montana off and away from the premises of a brewery, which structure is equipped with
 2 refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute
 3 beer as permitted by this code.

4 ~~(23)~~(24) "Subwarehouse" means a building or structure owned or operated by a licensed beer
 5 wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's
 6 or table wine distributor's warehouse or principal place of business, and used for the receiving, storage,
 7 and distribution of beer or table wine as permitted by this code.

8 ~~(24)~~(25) "Table wine" means wine that contains not more than 16% alcohol by volume and includes
 9 cider.

10 ~~(25)~~(26) "Table wine distributor" means a person importing into or purchasing in Montana table
 11 wine for sale or resale to retailers licensed in Montana.

12 ~~(26)~~(27) "Warehouse" means a building or structure located in Montana that is owned or operated
 13 by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer
 14 or table wine as permitted by this code.

15 ~~(27)~~(28) "Wine" means an alcoholic beverage made from or containing the normal alcoholic
 16 fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction,
 17 except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5%
 18 but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies,
 19 sweetened, and fortified in accordance with applicable federal regulations and the customs and practices
 20 of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine
 21 and labeled and sold as wine in accordance with federal regulations are also wine."
 22

23 **Section 2.** Section 16-1-411, MCA, is amended to read:

24 **"16-1-411. Tax on wine and cider.** (1) (a) A tax of 27 cents per liter is imposed on table wine,
 25 except cider, imported by a table wine distributor or the department.

26 (b) A tax of 3.7 cents per liter is imposed on cider imported by a table wine distributor or the
 27 department.

28 (2) (a) The tax ~~on table wine imported by a table wine distributor~~ imposed in subsection (1) must
 29 be paid by the table wine distributor by the 15th day of the month following sale of the table wine or cider
 30 from the table wine distributor's warehouse. Failure to file a ~~table wine~~ tax return or failure to pay the tax

1 required by this section subjects the table wine distributor to the penalties and interest provided for in
2 16-1-409.

3 (b) ~~The department shall collect the tax on table wine imported by the department must be~~
4 ~~collected~~ imposed in subsection (1) at the time of sale.

5 (3) The tax paid by a table wine distributor in accordance with subsection (2)(a) and the tax
6 collected by the department in accordance with subsection (2)(b) must, in accordance with the provisions
7 of 15-1-501, be distributed as follows:

8 (a) 16 cents to the state general fund; and

9 (b) of the remaining 11 cents:

10 (i) 8 1/3 cents to the state special revenue fund to the credit of the department of public health
11 and human services for the treatment, rehabilitation, and prevention of alcoholism;

12 (ii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department for allocation
13 to the counties, based on population, for the purpose established in 16-1-404; and

14 (iii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department for
15 allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

16 (4) The tax computed and paid in accordance with this section is the only tax imposed by the state
17 or any of its subdivisions, including cities and towns.

18 (5) For purposes of this section, the following definitions apply:

19 (a) ~~"based~~ Based on population" means:

20 ~~(a)(i)~~ (i) for counties, the direct proportion that the population of each county bears to the total
21 population of all counties as shown in the latest official federal census as adjusted by the most recent
22 population estimates published by the U.S. bureau of the census as provided in 16-1-410(2); and

23 ~~(b)(ii)~~ (ii) for cities, the distribution described in 16-1-410; and

24 (b) "Table wine" has the meaning assigned in 16-1-106, but does not include cider."

25

26 **Section 3.** Section 16-3-415, MCA, is amended to read:

27 **"16-3-415. Definitions.** As used in this part, unless the context requires otherwise, the following
28 definitions apply:

29 (1) "Agreement of distributorship" means a contract, agreement, commercial relationship, license,
30 or other arrangement for a definite or an indefinite period of time between a supplier and a table wine

1 distributor that provides for the sale of table wine by the supplier to the table wine distributor.

2 (2) "Good cause" means failure by a table wine distributor to comply with reasonable business
3 requirements imposed, or sought to be imposed, by a supplier under the terms of an agreement of
4 distributorship if the requirements are imposed on other similarly situated distributors either by the terms
5 of their agreements or in the manner of their enforcement by the supplier.

6 (3) "Person" means a natural person, corporation, partnership, trust, agency, or other entity and
7 includes individual officers, directors, or other persons in active control of the activities of the entity.

8 (4) "Supplier" means a winery or an importer or producer of table wines that enters into or is a
9 party to an agreement of distributorship with a table wine distributor."

10

11 **Section 4.** Section 16-3-418, MCA, is amended to read:

12 **"16-3-418. Dual appointments -- equal support -- alternate supplier.** (1) (a) A supplier may appoint
13 one or more table wine distributors to distribute its table ~~wines~~ wine in a specified territory. If the supplier
14 appoints two or more table wine distributors to sell its table ~~wines~~ wine in the same or overlapping
15 territories, the supplier shall offer the same prices, delivery, terms, and promotional support to each table
16 wine distributor.

17 (b) A supplier may not appoint more than one table wine distributor to distribute its cider in a
18 specified territory.

19 (c) For the purposes of this subsection (1), "table wine" has the meaning assigned in 16-1-106,
20 but does not include cider.

21 (2) The holder of an all-beverages license under chapter 4, part 2, may, upon presentation of ~~his~~
22 the license or a photocopy of ~~his~~ the license, personally obtain from any distributor's warehouse a quantity
23 of table wine that the licensee may agree to buy and that the distributor may agree to sell."

24

25 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 1997.

26

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0308, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing the sale of cider; defining "cider"; imposing a tax on the importation or sale of cider; providing for the distribution of revenue received from the tax on cider; authorizing licensed table wine distributors to sell cider under a license to sell table wine; and providing an immediate effective date.

ASSUMPTIONS:

1. There were 60,000 liters of alcoholic cider sold in Montana in CY 1996 (MDOR).
2. Montana sales of alcoholic cider will equal CY 1996 levels in FY98 and FY99 (MDOR).
3. All wine distributors currently pay the table wine tax on cider sales (MDOR).
4. The intent of the proposed legislation is to distribute the tax on cider in the same relative proportions as the tax on table wine (MDOR).

FISCAL IMPACT:

Expenditures:

There is no impact to Department of Revenue expenditures under the proposed legislation.

Revenues:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Table Wine Tax	(\$14,000)	(\$14,000)
Distribution:		
General Fund	(8,296)	(8,296)
DPHHS - Alcohol Treatment (02)	(4,324)	(4,324)
Counties	(690)	(690)
Cities	(690)	(690)

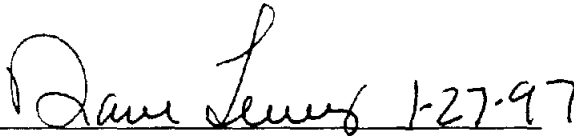
EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If assumption #4 above is correct, then the proposed legislation would reduce funds to counties and cities each by \$690 a year for law enforcement and regulation and control of the sale of alcoholic beverages.

TECHNICAL NOTES:

The distribution mechanism in the bill as currently drafted does not logically work. The bill indicates that in addition to the \$0.27 per liter wine tax, the \$0.037 cider tax shall be distributed 16 cents to the general fund, 8 and 1/3 cents to DPHHS, 1 and 1/3 cents to counties, and one and 1/3 cents to cities/towns.

Technical changes are also needed because the Department of Revenue no longer distributes table wine (or "cider") due to last session's privatization law. Language in 16-4-411(2)&(3) indicates the department still distributes table wine and "cider".


 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

BOB PAVLOVICH, PRIMARY SPONSOR DATE
 Fiscal Note for HB0308, as introduced
HB 308

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0308, as amended

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing the sale of cider; defining "cider"; clarifying that the additional tax on table wine does not apply as an additional tax on cider; clarifying that the Department of Revenue must collect the tax on the sale of cider in the same manner it now collects taxes on table wine; imposing a tax on the importation or sale of cider; providing for the distribution of revenue received from the tax on cider; authorizing licensed table wine distributors to sell cider under a license to sell table wine; and providing an immediate effective date.

ASSUMPTIONS:

1. There were 60,000 liters of alcoholic cider sold in Montana in CY 1996 (MDOR).
2. Montana sales of alcoholic cider will equal CY 1996 levels in FY98 and FY99 (MDOR).
3. All wine distributors currently pay the table wine tax on cider sales (MDOR).

FISCAL IMPACT:

Expenditures:

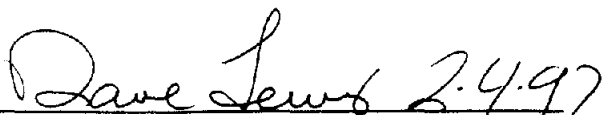
There is no impact to Department of Revenue expenditures under the proposed legislation.

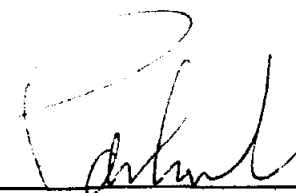
Revenues:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Table Wine Tax	(\$14,000)	(\$14,000)
Distribution:		
General Fund	(\$8,296)	(\$8,296)
DPHHS - Alcohol Treatment (02)	(\$4,320)	(\$4,320)
Counties	(\$692)	(\$692)
<u>Cities and Towns</u>	<u>(\$692)</u>	<u>(\$692)</u>
Total	(\$14,000)	(\$14,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES:

The proposed legislation would reduce revenues to local governments in the amounts shown above.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-4-99
BOB PAVLOVICH, PRIMARY SPONSOR DATE

Fiscal Note for HB0308, as amended

AM HB 308 #2

1 HOUSE BILL NO. 308

2 INTRODUCED BY PAVLOVICH, QUILICI, LYNCH, COCCHIARELLA, SHEA, MENAHAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SALE OF CIDER; DEFINING "CIDER";
5 IMPOSING A TAX ON THE IMPORTATION OR SALE OF CIDER; CLARIFYING THAT THE ADDITIONAL TAX
6 ON TABLE WINE DOES NOT APPLY AS AN ADDITIONAL TAX ON CIDER; CLARIFYING THAT THE
7 DEPARTMENT OF REVENUE MUST COLLECT THE TAX ON THE SALE OF CIDER IN THE SAME MANNER
8 IT NOW COLLECTS TAXES ON TABLE WINE; PROVIDING FOR THE DISTRIBUTION OF REVENUE RECEIVED
9 FROM THE TAX ON CIDER; AUTHORIZING LICENSED TABLE WINE DISTRIBUTORS TO SELL CIDER UNDER
10 A LICENSE TO SELL TABLE WINE; AMENDING SECTIONS 16-1-106, 16-1-411, 16-2-301, 16-3-415, AND
11 16-3-418, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14
15 **Section 1.** Section 16-1-106, MCA, is amended to read:16 **"16-1-106. Definitions.** As used in this code, the following definitions apply:17 (1) "Agency franchise agreement" means an agreement between the department and a person
18 appointed to sell liquor and table wine as a commission merchant rather than as an employee.19 (2) "Agency liquor store" means a store operated under an agency franchise agreement in
20 accordance with this code for the purpose of selling liquor at either the posted or retail price for
21 off-premises consumption.

22 (3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

23 (4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink
24 that contains more than 0.5% of alcohol by volume.

25 (5) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

26 (6) "Beer importer" means a person other than a brewer who imports malt beverages.

27 (7) "Brewer" means a person who produces malt beverages.

28 (8) "Cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices
29 of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol
30 by volume, including but not limited to flavored, sparkling, or carbonated cider.

1 (9) "Community" means:

2 (a) in an incorporated city or town, the area within the incorporated city or town boundaries;

3 (b) in an unincorporated city or area, the area identified by the federal bureau of the census as a
4 community for census purposes; and

5 (c) in a consolidated local government, the area of the consolidated local government not otherwise
6 incorporated.

7 ~~(9)~~(10) "Department" means the department of revenue, unless otherwise specified.

8 ~~(10)~~(11) "Immediate family" means a spouse, dependent children, or dependent parents.

9 ~~(11)~~(12) "Import" means to transfer beer or table wine from outside the state of Montana into the
10 state of Montana.

11 ~~(12)~~(13) "Industrial use" means a use described as industrial use by the federal Alcohol
12 Administration Act and the federal rules and regulations of 27 CFR.

13 ~~(13)~~(14) "Liquor" means an alcoholic beverage except beer and table wine.

14 ~~(14)~~(15) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or
15 decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or
16 their parts or their products and with or without other malted cereals and with or without the addition of
17 unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or
18 without other wholesome products suitable for human food consumption.

19 ~~(15)~~(16) "Package" means a container or receptacle used for holding an alcoholic beverage.

20 ~~(16)~~(17) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor
21 licenses as fixed and determined by the department and in addition an excise and license tax as provided
22 in this code.

23 ~~(17)~~(18) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that
24 contains 50% of alcohol by volume.

25 ~~(18)~~(19) "Public place" means a place, building, or conveyance to which the public has or may be
26 permitted to have access and any place of public resort.

27 ~~(19)~~(20) "Retail price" means the price established by an agent for the sale of liquor to persons who
28 do not hold liquor licenses. The retail price may not be less than the department's posted price.

29 ~~(20)~~(21) "Rules" means rules adopted by the department or the department of justice pursuant to
30 this code.

1 ~~(21)~~(22) "State liquor warehouse" means a building owned or under control of the department for
2 the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

3 ~~(22)~~(23) "Storage depot" means a building or structure owned or operated by a brewer at any point
4 in the state of Montana off and away from the premises of a brewery, which structure is equipped with
5 refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute
6 beer as permitted by this code.

7 ~~(23)~~(24) "Subwarehouse" means a building or structure owned or operated by a licensed beer
8 wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's
9 or table wine distributor's warehouse or principal place of business, and used for the receiving, storage,
10 and distribution of beer or table wine as permitted by this code.

11 ~~(24)~~(25) "Table wine" means wine that contains not more than 16% alcohol by volume and includes
12 cider.

13 ~~(25)~~(26) "Table wine distributor" means a person importing into or purchasing in Montana table
14 wine for sale or resale to retailers licensed in Montana.

15 ~~(26)~~(27) "Warehouse" means a building or structure located in Montana that is owned or operated
16 by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer
17 or table wine as permitted by this code.

18 ~~(27)~~(28) "Wine" means an alcoholic beverage made from or containing the normal alcoholic
19 fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction,
20 except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5%
21 but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies,
22 sweetened, and fortified in accordance with applicable federal regulations and the customs and practices
23 of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine
24 and labeled and sold as wine in accordance with federal regulations are also wine."
25

26 **Section 2.** Section 16-1-411, MCA, is amended to read:

27 "**16-1-411. Tax on wine and cider.** (1) (a) A tax of 27 cents per liter is imposed on table wine,
28 except cider, imported by a table wine distributor or the department.

29 (b) A tax of 3.7 cents per liter is imposed on cider imported by a table wine distributor or the
30 department.

1 (2) ~~(a)~~ The tax ~~on table wine imported by a table wine distributor~~ imposed in subsection (1) must
 2 be paid by the table wine distributor by the 15th day of the month following sale of the table wine or cider
 3 from the table wine distributor's warehouse. Failure to file a ~~table wine~~ tax return or failure to pay the tax
 4 required by this section subjects the table wine distributor to the penalties and interest provided for in
 5 16-1-409.

6 ~~(b) The department shall collect the tax on table wine imported by the department must be~~
 7 ~~collected imposed in subsection (1) at the time of sale.~~

8 (3) The tax paid by a table wine distributor in accordance with subsection (2)~~(a) and the tax~~
 9 ~~collected by the department in accordance with subsection (2)(b)~~ must, in accordance with the provisions
 10 of 15-1-501, be distributed as follows:

11 (a) ~~16 cents~~ 59.26% to the state general fund; ~~and~~

12 (b) ~~of the remaining 11 cents:~~

13 ~~(i) 8 1/3 cents~~ 30.86% to the state special revenue fund to the credit of the department of public
 14 health and human services for the treatment, rehabilitation, and prevention of alcoholism;

15 ~~(ii) 1 1/3 cents (C)~~ 4.94% is statutorily appropriated, as provided in 17-7-502, to the department
 16 for allocation to the counties, based on population, for the purpose established in 16-1-404; and

17 ~~(iii) 1 1/3 cents (D)~~ 4.94% is statutorily appropriated, as provided in 17-7-502, to the department
 18 for allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

19 (4) The tax computed and paid in accordance with this section is the only tax imposed by the state
 20 or any of its subdivisions, including cities and towns.

21 (5) For purposes of this section, the following definitions apply:

22 (a) ~~"based~~ Based on population" means:

23 ~~(a)(i)~~ (i) for counties, the direct proportion that the population of each county bears to the total
 24 population of all counties as shown in the latest official federal census as adjusted by the most recent
 25 population estimates published by the U.S. bureau of the census as provided in 16-1-410(2); and

26 ~~(b)(ii)~~ (ii) for cities, the distribution described in 16-1-410; and

27 (b) "Table wine" has the meaning assigned in 16-1-106, but does not include cider."

28
 29 ~~Section 3. Section 16-3-415, MCA, is amended to read:~~

30 ~~"16-3-415. Definitions. As used in this part, unless the context requires otherwise, the following~~

1 definitions apply:

2 ~~(1) "Agreement of distributorship" means a contract, agreement, commercial relationship, license,~~
 3 ~~or other arrangement for a definite or an indefinite period of time between a supplier and a table wine~~
 4 ~~distributor that provides for the sale of table wine by the supplier to the table wine distributor.~~

5 ~~(2) "Good cause" means failure by a table wine distributor to comply with reasonable business~~
 6 ~~requirements imposed, or sought to be imposed, by a supplier under the terms of an agreement of~~
 7 ~~distributorship if the requirements are imposed on other similarly situated distributors either by the terms~~
 8 ~~of their agreements or in the manner of their enforcement by the supplier.~~

9 ~~(3) "Person" means a natural person, corporation, partnership, trust, agency, or other entity and~~
 10 ~~includes individual officers, directors, or other persons in active control of the activities of the entity.~~

11 ~~(4) "Supplier" means a winery or an importer or producer of table wines that enters into or is a~~
 12 ~~party to an agreement of distributorship with a table wine distributor."~~

13

14 **SECTION 3. SECTION 16-2-301, MCA, IS AMENDED TO READ:**

15 **"16-2-301. Retail selling price on table wine -- tax on certain table wine.** (1) The retail selling price
 16 at which table wine is sold at an agency liquor store is as determined by the agent.

17 (2) In addition to the tax on wine assessed under 16-1-411, there is a tax of 1 cent a liter on table
 18 wine sold by a table wine distributor to an agent as described in subsection (1). This additional tax must
 19 be paid to the department by the distributor in the same manner as the tax under 16-1-411 is paid. The
 20 department shall deposit the tax paid under this section in the general fund.

21 (3) For the purposes of this section, "table wine" does not include cider.

22

23 **Section 4.** Section 16-3-418, MCA, is amended to read:

24 **"16-3-418. Dual appointments -- equal support -- alternate supplier.** (1) (a) A supplier may appoint
 25 one or more table wine distributors to distribute its table ~~wines~~ wine WINES in a specified territory. If the
 26 supplier appoints two or more table wine distributors to sell its table ~~wines~~ wine WINES in the same or
 27 overlapping territories, the supplier shall offer the same prices, delivery, terms, and promotional support
 28 to each table wine distributor.

29 (b) A supplier may not appoint more than one table wine distributor to distribute its cider in a
 30 specified territory.

1 (c) For the purposes of this subsection (1), "table wine" has the meaning assigned in 16-1-106,
2 but does not include cider.

3 (2) The holder of an all-beverages license under chapter 4, part 2, may, upon presentation of ~~his~~
4 the license or a photocopy of ~~his~~ the license, personally obtain from any distributor's warehouse a quantity
5 of table wine that the licensee may agree to buy and that the distributor may agree to sell."

6

7 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1997.

8

-END-

1 HOUSE BILL NO. 308

2 INTRODUCED BY PAVLOVICH, QUILICI, LYNCH, COCCHIARELLA, SHEA, MENAHAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SALE OF CIDER; DEFINING "CIDER";
5 IMPOSING A TAX ON THE IMPORTATION OR SALE OF CIDER; CLARIFYING THAT THE ADDITIONAL TAX
6 ON TABLE WINE DOES NOT APPLY AS AN ADDITIONAL TAX ON CIDER; CLARIFYING THAT THE
7 DEPARTMENT OF REVENUE MUST COLLECT THE TAX ON THE SALE OF CIDER IN THE SAME MANNER
8 IT NOW COLLECTS TAXES ON TABLE WINE; PROVIDING FOR THE DISTRIBUTION OF REVENUE RECEIVED
9 FROM THE TAX ON CIDER; AUTHORIZING LICENSED TABLE WINE DISTRIBUTORS TO SELL CIDER UNDER
10 A LICENSE TO SELL TABLE WINE; AMENDING SECTIONS 16-1-106, 16-1-411, 16-2-301, ~~16-3-415~~, AND
11 16-3-418, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

HOUSE BILL NO. 308

INTRODUCED BY PAVLOVICH, QUILICI, LYNCH, COCCHIARELLA, SHEA, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SALE OF HARD CIDER; DEFINING "CIDER" "HARD CIDER"; IMPOSING A TAX ON THE IMPORTATION OR SALE OF HARD CIDER; CLARIFYING THAT THE ADDITIONAL TAX ON TABLE WINE DOES NOT APPLY AS AN ADDITIONAL TAX ON HARD CIDER; CLARIFYING THAT THE DEPARTMENT OF REVENUE MUST COLLECT THE TAX ON THE SALE OF HARD CIDER IN THE SAME MANNER IT NOW COLLECTS TAXES ON TABLE WINE; PROVIDING FOR THE DISTRIBUTION OF REVENUE RECEIVED FROM THE TAX ON HARD CIDER; AUTHORIZING LICENSED TABLE WINE DISTRIBUTORS TO SELL HARD CIDER UNDER A LICENSE TO SELL TABLE WINE; AMENDING SECTIONS 16-1-106, 16-1-411, 16-2-301, ~~16-3-415~~, AND 16-3-418, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 16-1-106, MCA, is amended to read:

"16-1-106. Definitions. As used in this code, the following definitions apply:

(1) "Agency franchise agreement" means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Agency liquor store" means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or retail price for off-premises consumption.

(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

(6) "Beer importer" means a person other than a brewer who imports malt beverages.

(7) "Brewer" means a person who produces malt beverages.

~~(8) "Cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol~~

1 ~~by volume, including but not limited to flavored, sparkling, or carbonated cider.~~

2 ~~(9)~~(8) "Community" means:

3 (a) in an incorporated city or town, the area within the incorporated city or town boundaries;

4 (b) in an unincorporated city or area, the area identified by the federal bureau of the census as a
5 community for census purposes; and

6 (c) in a consolidated local government, the area of the consolidated local government not otherwise
7 incorporated.

8 ~~(9)~~~~(10)~~(9) "Department" means the department of revenue, unless otherwise specified.

9 (10) "HARD CIDER" MEANS AN ALCOHOLIC BEVERAGE THAT IS MADE FROM THE ALCOHOLIC
10 FERMENTATION OF THE JUICES OF APPLES OR PEARS AND THAT CONTAINS NOT LESS THAN 0.5%
11 ALCOHOL BY VOLUME AND NOT MORE THAN 6.9% ALCOHOL BY VOLUME, INCLUDING BUT NOT
12 LIMITED TO FLAVORED, SPARKLING, OR CARBONATED CIDER.

13 ~~(10)~~(11) "Immediate family" means a spouse, dependent children, or dependent parents.

14 ~~(14)~~(12) "Import" means to transfer beer or table wine from outside the state of Montana into the
15 state of Montana.

16 ~~(12)~~(13) "Industrial use" means a use described as industrial use by the federal Alcohol
17 Administration Act and the federal rules and regulations of 27 CFR.

18 ~~(13)~~(14) "Liquor" means an alcoholic beverage except beer and table wine.

19 ~~(14)~~(15) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or
20 decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or
21 their parts or their products and with or without other malted cereals and with or without the addition of
22 unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or
23 without other wholesome products suitable for human food consumption.

24 ~~(15)~~(16) "Package" means a container or receptacle used for holding an alcoholic beverage.

25 ~~(16)~~(17) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor
26 licenses as fixed and determined by the department and in addition an excise and license tax as provided
27 in this code.

28 ~~(17)~~(18) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that
29 contains 50% of alcohol by volume.

30 ~~(18)~~(19) "Public place" means a place, building, or conveyance to which the public has or may be

1 permitted to have access and any place of public resort.

2 ~~(19)~~(20) "Retail price" means the price established by an agent for the sale of liquor to persons who
3 do not hold liquor licenses. The retail price may not be less than the department's posted price.

4 ~~(20)~~(21) "Rules" means rules adopted by the department or the department of justice pursuant to
5 this code.

6 ~~(21)~~(22) "State liquor warehouse" means a building owned or under control of the department for
7 the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

8 ~~(22)~~(23) "Storage depot" means a building or structure owned or operated by a brewer at any point
9 in the state of Montana off and away from the premises of a brewery, which structure is equipped with
10 refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute
11 beer as permitted by this code.

12 ~~(23)~~(24) "Subwarehouse" means a building or structure owned or operated by a licensed beer
13 wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's
14 or table wine distributor's warehouse or principal place of business, and used for the receiving, storage,
15 and distribution of beer or table wine as permitted by this code.

16 ~~(24)~~(25) "Table wine" means wine that contains not more than 16% alcohol by volume and includes
17 cider.

18 ~~(25)~~(26) "Table wine distributor" means a person importing into or purchasing in Montana table
19 wine for sale or resale to retailers licensed in Montana.

20 ~~(26)~~(27) "Warehouse" means a building or structure located in Montana that is owned or operated
21 by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer
22 or table wine as permitted by this code.

23 ~~(27)~~(28) "Wine" means an alcoholic beverage made from or containing the normal alcoholic
24 fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction,
25 except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5%
26 but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies,
27 sweetened, and fortified in accordance with applicable federal regulations and the customs and practices
28 of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine
29 and labeled and sold as wine in accordance with federal regulations are also wine."
30

1 **Section 2.** Section 16-1-411, MCA, is amended to read:

2 **"16-1-411. Tax on wine and HARD cider.** (1) (a) A tax of 27 cents per liter is imposed on table
3 wine, except HARD cider, imported by a table wine distributor or the department.

4 (b) A tax of 3.7 cents per liter is imposed on HARD cider imported by a table wine distributor or
5 the department.

6 (2) ~~(a) The tax on table wine imported by a table wine distributor~~ imposed in subsection (1) must
7 be paid by the table wine distributor by the 15th day of the month following sale of the table wine or HARD
8 cider from the table wine distributor's warehouse. Failure to file a ~~table wine~~ tax return or failure to pay the
9 tax required by this section subjects the table wine distributor to the penalties and interest provided for in
10 16-1-409.

11 ~~(b) The department shall collect the tax on table wine imported by the department must be~~
12 ~~collected imposed in subsection (1) at the time of sale.~~

13 (3) The tax paid by a table wine distributor in accordance with subsection (2)~~(a) and the tax~~
14 ~~collected by the department in accordance with subsection (2)(b)~~ must, in accordance with the provisions
15 of 15-1-501, be distributed as follows:

16 (a) ~~16 cents~~ 59.26% 59% to the state general fund; ~~and~~

17 (b) ~~of the remaining 11 cents:~~

18 (i) ~~8 1/3 cents~~ 30.86% 31% to the state special revenue fund to the credit of the department of
19 public health and human services for the treatment, rehabilitation, and prevention of alcoholism;

20 (ii) ~~1 1/3 cents~~ (C) 4.94% 5% is statutorily appropriated, as provided in 17-7-502, to the
21 department for allocation to the counties, based on population, for the purpose established in 16-1-404;
22 and

23 ~~(iii) 1 1/3 cents~~ (D) 4.94% 5% is statutorily appropriated, as provided in 17-7-502, to the
24 department for allocation to the cities and towns, based on population, for the purpose established in
25 16-1-405.

26 (4) The tax computed and paid in accordance with this section is the only tax imposed by the state
27 or any of its subdivisions, including cities and towns.

28 (5) For purposes of this section, the following definitions apply:

29 (a) "~~based~~ Based on population" means:

30 ~~(a)(i)~~ (i) for counties, the direct proportion that the population of each county bears to the total

1 population of all counties as shown in the latest official federal census as adjusted by the most recent
2 population estimates published by the U.S. bureau of the census as provided in 16-1-410(2); and

3 ~~(b)(ii)~~ for cities, the distribution described in 16-1-410; and

4 (b) "Table wine" has the meaning assigned in 16-1-106, but does not include HARD cider."

5
6 ~~Section 3. Section 16-3-415, MCA, is amended to read:~~

7 ~~"16-3-415. Definitions. As used in this part, unless the context requires otherwise, the following~~
8 ~~definitions apply:~~

9 ~~(1) "Agreement of distributorship" means a contract, agreement, commercial relationship, licence,~~
10 ~~or other arrangement for a definite or an indefinite period of time between a supplier and a table wine~~
11 ~~distributor that provides for the sale of table wine by the supplier to the table wine distributor.~~

12 ~~(2) "Good cause" means failure by a table wine distributor to comply with reasonable business~~
13 ~~requirements imposed, or sought to be imposed, by a supplier under the terms of an agreement of~~
14 ~~distributorship if the requirements are imposed on other similarly situated distributors either by the terms~~
15 ~~of their agreements or in the manner of their enforcement by the supplier.~~

16 ~~(3) "Person" means a natural person, corporation, partnership, trust, agency, or other entity and~~
17 ~~includes individual officers, directors, or other persons in active control of the activities of the entity.~~

18 ~~(4) "Supplier" means a winery or an importer or producer of table wines that enters into or is a~~
19 ~~party to an agreement of distributorship with a table wine distributor."~~

20
21 SECTION 3. SECTION 16-2-301, MCA, IS AMENDED TO READ:

22 **"16-2-301. Retail selling price on table wine -- tax on certain table wine.** (1) The retail selling price
23 at which table wine is sold at an agency liquor store is as determined by the agent.

24 (2) In addition to the tax on wine assessed under 16-1-411, there is a tax of 1 cent a liter on table
25 wine sold by a table wine distributor to an agent as described in subsection (1). This additional tax must
26 be paid to the department by the distributor in the same manner as the tax under 16-1-411 is paid. The
27 department shall deposit the tax paid under this section in the general fund.

28 (3) For the purposes of this section, "table wine" does not include HARD cider."

29
30 **Section 4. Section 16-3-418, MCA, is amended to read:**

1 **"16-3-418. Dual appointments -- equal support -- alternate supplier.** (1) (a) A supplier may appoint
2 one or more table wine distributors to distribute its table ~~wines~~ ~~wine~~ WINES in a specified territory. If the
3 supplier appoints two or more table wine distributors to sell its table ~~wines~~ ~~wine~~ WINES in the same or
4 overlapping territories, the supplier shall offer the same prices, delivery, terms, and promotional support
5 to each table wine distributor.

6 (b) A supplier may not appoint more than one table wine distributor to distribute its HARD cider
7 in a specified territory.

8 (c) For the purposes of this subsection (1), "table wine" has the meaning assigned in 16-1-106,
9 but does not include HARD cider.

10 (2) The holder of an all-beverages license under chapter 4, part 2, may, upon presentation of ~~his~~
11 the license or a photocopy of ~~his~~ the license, personally obtain from any distributor's warehouse a quantity
12 of table wine that the licensee may agree to buy and that the distributor may agree to sell."
13

14 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1997.

15

-END-

HOUSE BILL NO. 308

INTRODUCED BY PAVLOVICH, QUILICI, LYNCH, COCCHIARELLA, SHEA, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE SALE OF HARD CIDER; DEFINING "CIDER" "HARD CIDER"; IMPOSING A TAX ON THE IMPORTATION OR SALE OF HARD CIDER; CLARIFYING THAT THE ADDITIONAL TAX ON TABLE WINE DOES NOT APPLY AS AN ADDITIONAL TAX ON HARD CIDER; CLARIFYING THAT THE DEPARTMENT OF REVENUE MUST COLLECT THE TAX ON THE SALE OF HARD CIDER IN THE SAME MANNER IT NOW COLLECTS TAXES ON TABLE WINE; PROVIDING FOR THE DISTRIBUTION OF REVENUE RECEIVED FROM THE TAX ON HARD CIDER; AUTHORIZING LICENSED TABLE WINE DISTRIBUTORS TO SELL HARD CIDER UNDER A LICENSE TO SELL TABLE WINE; AMENDING SECTIONS 16-1-106, 16-1-411, 16-2-301, ~~16-3-416~~, AND 16-3-418, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 16-1-106, MCA, is amended to read:

"16-1-106. Definitions. As used in this code, the following definitions apply:

(1) "Agency franchise agreement" means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Agency liquor store" means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or retail price for off-premises consumption.

(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

(6) "Beer importer" means a person other than a brewer who imports malt beverages.

(7) "Brewer" means a person who produces malt beverages.

~~(8) "Cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol~~

1 ~~by volume, including but not limited to flavored, sparkling, or carbonated cider.~~

2 ~~(9)~~(8) "Community" means:

3 (a) in an incorporated city or town, the area within the incorporated city or town boundaries;

4 (b) in an unincorporated city or area, the area identified by the federal bureau of the census as a
5 community for census purposes; and

6 (c) in a consolidated local government, the area of the consolidated local government not otherwise
7 incorporated.

8 ~~(9)~~~~(10)~~(9) "Department" means the department of revenue, unless otherwise specified.

9 (10) "HARD CIDER" MEANS AN ALCOHOLIC BEVERAGE THAT IS MADE FROM THE ALCOHOLIC
10 FERMENTATION OF THE JUICES OF APPLES OR PEARS AND THAT CONTAINS NOT LESS THAN 0.5%
11 ALCOHOL BY VOLUME AND NOT MORE THAN 6.9% ALCOHOL BY VOLUME, INCLUDING BUT NOT
12 LIMITED TO FLAVORED, SPARKLING, OR CARBONATED CIDER.

13 ~~(10)~~~~(11)~~ "Immediate family" means a spouse, dependent children, or dependent parents.

14 ~~(11)~~~~(12)~~ "Import" means to transfer beer or table wine from outside the state of Montana into the
15 state of Montana.

16 ~~(12)~~~~(13)~~ "Industrial use" means a use described as industrial use by the federal Alcohol
17 Administration Act and the federal rules and regulations of 27 CFR.

18 ~~(13)~~~~(14)~~ "Liquor" means an alcoholic beverage except beer and table wine.

19 ~~(14)~~~~(15)~~ "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or
20 decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or
21 their parts or their products and with or without other malted cereals and with or without the addition of
22 unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or
23 without other wholesome products suitable for human food consumption.

24 ~~(15)~~~~(16)~~ "Package" means a container or receptacle used for holding an alcoholic beverage.

25 ~~(16)~~~~(17)~~ "Posted price" means the wholesale price of liquor for sale to persons who hold liquor
26 licenses as fixed and determined by the department and in addition an excise and license tax as provided
27 in this code.

28 ~~(17)~~~~(18)~~ "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that
29 contains 50% of alcohol by volume.

30 ~~(18)~~~~(19)~~ "Public place" means a place, building, or conveyance to which the public has or may be

1 permitted to have access and any place of public resort.

2 ~~(19)~~(20) "Retail price" means the price established by an agent for the sale of liquor to persons who
3 do not hold liquor licenses. The retail price may not be less than the department's posted price.

4 ~~(20)~~(21) "Rules" means rules adopted by the department or the department of justice pursuant to
5 this code.

6 ~~(21)~~(22) "State liquor warehouse" means a building owned or under control of the department for
7 the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

8 ~~(22)~~(23) "Storage depot" means a building or structure owned or operated by a brewer at any point
9 in the state of Montana off and away from the premises of a brewery, which structure is equipped with
10 refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute
11 beer as permitted by this code.

12 ~~(23)~~(24) "Subwarehouse" means a building or structure owned or operated by a licensed beer
13 wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's
14 or table wine distributor's warehouse or principal place of business, and used for the receiving, storage,
15 and distribution of beer or table wine as permitted by this code.

16 ~~(24)~~(25) "Table wine" means wine that contains not more than 16% alcohol by volume and includes
17 cider.

18 ~~(25)~~(26) "Table wine distributor" means a person importing into or purchasing in Montana table
19 wine for sale or resale to retailers licensed in Montana.

20 ~~(26)~~(27) "Warehouse" means a building or structure located in Montana that is owned or operated
21 by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer
22 or table wine as permitted by this code.

23 ~~(27)~~(28) "Wine" means an alcoholic beverage made from or containing the normal alcoholic
24 fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction,
25 except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5%
26 but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies,
27 sweetened, and fortified in accordance with applicable federal regulations and the customs and practices
28 of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine
29 and labeled and sold as wine in accordance with federal regulations are also wine."
30

1 **Section 2.** Section 16-1-411, MCA, is amended to read:

2 "**16-1-411. Tax on wine and HARD cider.** (1) (a) A tax of 27 cents per liter is imposed on table
3 wine, except HARD cider, imported by a table wine distributor or the department.

4 (b) A tax of 3.7 cents per liter is imposed on HARD cider imported by a table wine distributor or
5 the department.

6 (2) ~~(a) The tax on table wine imported by a table wine distributor imposed in subsection (1) must~~
7 be paid by the table wine distributor by the 15th day of the month following sale of the table wine or HARD
8 cider from the table wine distributor's warehouse. Failure to file a ~~table wine~~ tax return or failure to pay the
9 tax required by this section subjects the table wine distributor to the penalties and interest provided for in
10 16-1-409.

11 ~~(b) The department shall collect the tax on table wine imported by the department must be~~
12 ~~collected imposed in subsection (1) at the time of sale.~~

13 (3) The tax paid by a table wine distributor in accordance with subsection (2)~~(a) and the tax~~
14 ~~collected by the department in accordance with subsection (2)(b)~~ must, in accordance with the provisions
15 of 15-1-501, be distributed as follows:

16 (a) ~~16 cents~~ 59.26% 59% to the state general fund; ~~and~~

17 (b) ~~of the remaining 11 cents;~~

18 ~~(i) 8 1/3 cents~~ 30.86% 31% to the state special revenue fund to the credit of the department of
19 public health and human services for the treatment, rehabilitation, and prevention of alcoholism;

20 ~~(ii) 1 1/3 cents~~ (C) 4.94% 5% is statutorily appropriated, as provided in 17-7-502, to the
21 department for allocation to the counties, based on population, for the purpose established in 16-1-404;
22 and

23 ~~(iii) 1 1/3 cents~~ (D) 4.94% 5% is statutorily appropriated, as provided in 17-7-502, to the
24 department for allocation to the cities and towns, based on population, for the purpose established in
25 16-1-405.

26 (4) The tax computed and paid in accordance with this section is the only tax imposed by the state
27 or any of its subdivisions, including cities and towns.

28 (5) For purposes of this section, the following definitions apply:

29 (a) ~~"based~~ Based on population" means:

30 ~~(a)~~(i) for counties, the direct proportion that the population of each county bears to the total

1 population of all counties as shown in the latest official federal census as adjusted by the most recent
 2 population estimates published by the U.S. bureau of the census as provided in 16-1-410(2); and

3 ~~(b)(ii) for cities, the distribution described in 16-1-410; and~~

4 ~~(b) "Table wine" has the meaning assigned in 16-1-106, but does not include HARD cider."~~

5
 6 **Section 3.** ~~Section 16-3-415, MCA, is amended to read:~~

7 ~~"16-3-415. Definitions. As used in this part, unless the context requires otherwise, the following~~
 8 ~~definitions apply:~~

9 ~~(1) "Agreement of distributorship" means a contract, agreement, commercial relationship, license,~~
 10 ~~or other arrangement for a definite or an indefinite period of time between a supplier and a table wine~~
 11 ~~distributor that provides for the sale of table wine by the supplier to the table wine distributor.~~

12 ~~(2) "Good cause" means failure by a table wine distributor to comply with reasonable business~~
 13 ~~requirements imposed, or sought to be imposed, by a supplier under the terms of an agreement of~~
 14 ~~distributorship if the requirements are imposed on other similarly situated distributors either by the terms~~
 15 ~~of their agreements or in the manner of their enforcement by the supplier.~~

16 ~~(3) "Person" means a natural person, corporation, partnership, trust, agency, or other entity and~~
 17 ~~includes individual officers, directors, or other persons in active control of the activities of the entity.~~

18 ~~(4) "Supplier" means a winery or an importer or producer of table wines that enters into or is a~~
 19 ~~party to an agreement of distributorship with a table wine distributor."~~

20
 21 **SECTION 3. SECTION 16-2-301, MCA, IS AMENDED TO READ:**

22 **"16-2-301. Retail selling price on table wine -- tax on certain table wine.** (1) The retail selling price
 23 at which table wine is sold at an agency liquor store is as determined by the agent.

24 (2) In addition to the tax on wine assessed under 16-1-411, there is a tax of 1 cent a liter on table
 25 wine sold by a table wine distributor to an agent as described in subsection (1). This additional tax must
 26 be paid to the department by the distributor in the same manner as the tax under 16-1-411 is paid. The
 27 department shall deposit the tax paid under this section in the general fund.

28 **(3) For the purposes of this section, "table wine" does not include HARD cider."**

29
 30 **Section 4.** Section 16-3-418, MCA, is amended to read:

1 **"16-3-418. Dual appointments -- equal support -- ~~alternate supplier.~~** (1) (a) A supplier may appoint
2 one or more table wine distributors to distribute its table ~~wines~~ wine **WINES** in a specified territory. If the
3 supplier appoints two or more table wine distributors to sell its table ~~wines~~ wine **WINES** in the same or
4 overlapping territories, the supplier shall offer the same prices, delivery, terms, and promotional support
5 to each table wine distributor.

6 (b) A supplier may not appoint more than one table wine distributor to distribute its HARD cider
7 in a specified territory.

8 (c) For the purposes of this subsection (1), "table wine" has the meaning assigned in 16-1-106,
9 but does not include HARD cider.

10 (2) The holder of an all-beverages license under chapter 4, part 2, may, upon presentation of ~~his~~
11 the license or a photocopy of ~~his~~ the license, personally obtain from any distributor's warehouse a quantity
12 of table wine that the licensee may agree to buy and that the distributor may agree to sell."

13

14 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1997.

15

-END-