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House BILL NO. 604

INTRODUCED BY ~~Harvey Rose, Grady, Bill Keenan, Ream~~
~~John Ols, Gebbein, Jack McLean, Jeff~~

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO BREWING BEER IN MONTANA; ALLOWING CERTAIN DOMESTIC BREWERIES TO OBTAIN AN ENDORSEMENT TO SELL FOR ON- AND OFF-PREMISE CONSUMPTION BEER BREWED ON THE PREMISES; PROVIDING THAT A BREWER THAT SELLS BEER FOR ON-PREMISE CONSUMPTION MAY NOT HAVE GAMBLING ON THE PREMISES; PROVIDING THAT MALTING BARLEY MACHINERY AND EQUIPMENT ARE CLASSIFIED AS CLASS 6 PROPERTY; PROVIDING THAT PREMISES LICENSED FOR ON-PREMISE CONSUMPTION OF ALCOHOL MAY BE LICENSED AS A BREWERY IF GAMBLING DOES NOT OCCUR ON THE PREMISES; AUTHORIZING HOME BREWING THAT MEETS THE REQUIREMENTS OF FEDERAL LAW; AND AMENDING SECTIONS 15-6-136, 16-3-201, 16-3-213, 16-3-242, 16-4-101, 16-4-401, AND 16-6-301, MCA."

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

NEW SECTION. Section 1. Domestic breweries -- retail sale of brewed beer or malt beverages --

gambling prohibited. (1) A brewery located in Montana and licensed as provided in Title 16, chapter 4, and that manufactures not more than 15,000 barrels of beer in a year may:

(a) at the brewery, sell beer that it brews on the premises directly to the consumer for consumption on or off the premises;

(b) provide, without charge, beer that it manufactures for consumption at the brewery at a location other than where retail sales are made.

(2) Prior to selling beer that it brews directly to consumers, a brewer shall obtain an on-premises consumption endorsement of its brewer's license from the department. A written application with an application fee of \$500 must be submitted to the department for its approval. The endorsement must be renewed annually upon payment of an annual fee of \$50. A brewery may not be granted an endorsement, or an issued endorsement must be revoked if:

(a) the department determines that the applicant's or endorsement holder's premises are unsuitable for on-premise consumption of beer;

(b) the applicant or endorsement holder has been convicted of illegal sales of beer or any other

1 violation of this code; or

2 (c) gambling has occurred on the premises.

3 (3) on-premise retail sales of beer may be conducted only between the hours of 8 a.m. and 10 p.m.

4 (4) An endorsement issued under this section is not a license to sell alcoholic beverages for
5 consumption on the premises for the purposes of authorizing gambling or gaming on the premises as
6 provided in Title 23, chapter 5.

7

8 **Section 2.** Section 15-6-136, MCA, is amended to read:

9 "**15-6-136. Class six property -- description -- taxable percentage.** (1) Class six property includes:

10 (a) livestock and other species of domestic animals and wildlife raised in domestication or a captive
11 environment, except for cats, dogs, and other household pets not raised for profit;

12 (b) items of personal property intended for rent or lease in the ordinary course of business,
13 provided each item of personal property satisfies all of the following:

14 (i) the full and true value of the personal property is less than \$5,000;

15 (ii) the personal property is owned by a business whose primary business income is from rental or
16 lease of personal property to individuals wherein no one customer of the business accounts for more than
17 10% of the total rentals or leases during a calendar year; ~~and~~

18 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis; and

19 (c) machinery and equipment used in canola seed oil processing facilities if:

20 (i) the operators of such facilities employ a minimum of 15 full-time employees; and

21 (ii) a canola seed oil processing facility locates in the state of Montana after July 25, 1989; and

22 (c) machinery and equipment used in a malting barley facility.

23 (2) "Canola seed oil processing facility" means a facility that:

24 (a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and
25 packages the edible oil into food products, or engages in any one or more of those processes; and

26 (b) employs at least 15 employees in a full-time capacity.

27 (3) "Malting barley facility" means a facility and integral machinery and equipment used principally
28 to malt malting barley and includes machinery and equipment to mix, blend, transport, transfer, or process
29 the barley and malt at the facility.

30 ~~(3)~~(4) Class six property is taxed at 4% of its market value."

1 **Section 3.** Section 16-3-201, MCA, is amended to read:

2 "16-3-201. **Possession, manufacture, importation, or disposal of beer in manner other than**
3 **prescribed unlawful -- personal brewing.** (1) ~~It shall be~~ is unlawful to manufacture, import, sell or dispose
4 of, or possess for the purpose of sale beer of any kind or character of an alcoholic content greater than
5 ~~herein prescribed~~ authorized or other than in the manner permitted by this code.

6 (2) This code does not prohibit the manufacture of beer, for personal or family use and not intended
7 for sale, that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section,
8 including the brewing of beer, for personal or family use, on premises other than those of the person
9 brewing the beer."

10

11 **Section 4.** Section 16-3-213, MCA, is amended to read:

12 "16-3-213. **Brewers or beer importers not to retail beer -- original package and taproom**
13 **exceptions.** (1) ~~It shall be~~ Unless licensed under 16-4-101(2), it is unlawful for any brewer or breweries
14 or beer importer to have or own any permit to sell or to retail beer at any place or premises, ~~it being the~~
15 ~~declared intention to prohibit brewers and beer importers from engaging in the retail dispensation of beer;~~
16 ~~provided, however, that this shall not be so construed as to,~~

17 (2) Subsection (1) does not prohibit breweries from:

18 (a) ~~making sale and delivery of~~ selling or delivering beer manufactured by them, in original
19 packages, at either wholesale or retail, ~~or,~~

20 (b) ~~from~~ providing, without charge, their products for consumption on their licensed premises; ~~or~~

21 (c) otherwise selling beer in accordance with [section 1]."

22

23 **Section 5.** Section 16-3-242, MCA, is amended to read:

24 "16-3-242. **Financial interest in retailers prohibited.** (1) ~~No~~ A brewer, beer importer, or wholesaler
25 ~~shall~~ may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any
26 license or tax which may be required to be paid for any retailer, and ~~no~~ a brewer, beer importer, or
27 wholesaler ~~shall~~ may not be financially interested, either directly or indirectly, in the conduct or operation
28 of the business of a retailer. A brewer, beer importer, or wholesaler ~~shall be deemed~~ is considered to have
29 ~~such~~ a financial interest within the meaning of this section if:

30 ~~(1)(a)~~ (a) ~~such~~ the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or

1 mortgage against the retailer or ~~his~~ the premises;

2 ~~(2)(b)~~ such the brewer, beer importer, or wholesaler is under any contract with a retailer concerning
3 future purchases ~~and/or~~ or sale, or both, of merchandise by one from or to the other;

4 ~~(3)(c)~~ any retailer holds an interest, as a stockholder or otherwise, in the business of the
5 wholesaler.

6 (2) The issuance of a license and subsequent manufacture of beer on premises licensed for
7 on-premise consumption as provided in 16-4-101(2) does not constitute interest in a brewer that is
8 prohibited by this section."

9

10 **Section 6.** Section 16-4-101, MCA, is amended to read:

11 **"16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant. (1)**

12 (a) Any person desiring to manufacture, import, or sell beer under the provisions of this code shall first
13 apply to the department for a license ~~to do so~~ and pay ~~with such the~~ application ~~the~~ license fee ~~prescribed~~.
14 The department shall require of ~~such the~~ applicant satisfactory evidence that the applicant is of good moral
15 character and a law-abiding person.

16 ~~(2)(b)~~ Upon being satisfied, from ~~such the~~ application or otherwise, that ~~such the~~ applicant is
17 qualified, the department shall issue ~~such the~~ license to ~~such the~~ person, ~~which~~ The license shall must be
18 at all times prominently displayed in the place of business of ~~such the~~ applicant.

19 ~~(3)(c)~~ If the department ~~shall find~~ finds that ~~such the~~ applicant is not qualified, ~~no a~~ license ~~shall~~
20 may not be granted and ~~such the~~ license fee ~~shall must~~ be returned.

21 (2) The department shall grant a license under this section to a holder of an all-beverages license
22 for on-premise consumption of alcohol issued under 16-4-201 to manufacture beer on the premises if the
23 premises are not licensed for gambling or gaming under the provisions of Title 23, chapter 5. The license
24 granted under this section must be revoked if gambling occurs on the premises.

25 (3) A person manufacturing beer for personal or family use under 16-3-201(2) is not required to
26 be licensed."

27

28 **Section 7.** Section 16-4-401, MCA, is amended to read:

29 **"16-4-401. License as privilege -- criteria for decision on application. (1)** A license under this code
30 is a privilege ~~which~~ that the state may grant to an applicant and is not a right to which any applicant is

1 entitled.

2 (2) Except as provided in subsection (6), in the case of a license that permits on-premises
3 consumption, the department ~~must~~ shall find in every case in which it makes an order for the issuance of
4 a new license or for the approval of the transfer of a license that:

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

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

8 (ii) the applicant ~~does~~ may not possess an ownership interest in an agency liquor store as defined
9 in 16-1-106;

10 (iii) except as provided in subsection (7) the applicant or any member of the applicant's immediate
11 family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of
12 alcoholic beverages;

13 (iv) the applicant is a resident of the state and is qualified to vote in a state election;

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

17 (vi) the applicant is not under the age of 19 years; and

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

19 (i) the owners of at least 51% of the outstanding stock meet the requirements of subsection
20 (2)(a)(iv);

21 (ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual
22 applicant listed in subsection (2)(a);

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

24 (iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets
25 the requirements of subsections (2)(a)(i) and (2)(a)(ii); and

26 (c) in the case of any other business entity as applicant:

27 (i) if the applicant consists of more than one individual, all must meet the requirements of
28 subsection (2)(a); and

29 (ii) if the applicant consists of more than one corporation, all must meet the requirements of
30 subsection (2)(b).

1 (3) In the case of a license that permits only off-premises consumption, the department ~~must~~ shall
2 find in every case in which it makes an order for the issuance of a new license or for the approval of the
3 transfer of a license that:

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

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

7 (ii) the applicant ~~does~~ may not possess an ownership interest in an agency liquor store as defined
8 in 16-1-106;

9 (iii) the applicant or any member of the applicant's immediate family is without financing from or
10 any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

11 (iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
12 felony, the applicant's rights have been restored;

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

16 (vi) the applicant is not under the age of 19 years; and

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

18 (i) the owners of at least 51% of the outstanding stock meet the requirements of subsection
19 (3)(a)(iv);

20 (ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual
21 listed in subsection (3)(a) ~~of this section~~; and

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

23 (c) in the case of any other business entity as applicant:

24 (i) if the applicant consists of more than one individual, all must meet the requirements of
25 subsection (3)(a); and

26 (ii) if the applicant consists of more than one corporation, all must meet the requirements of
27 subsection (3)(b).

28 (4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic
29 beverage, the department ~~must~~ shall find in every case in which it makes an order for the issuance of a new
30 license or for the approval of the transfer of a license that:

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

2 (i) the applicant has no ownership interest in any establishment licensed under this chapter for retail
3 alcoholic beverages sales;

4 (ii) the applicant ~~does~~ may not possess an ownership interest in an agency liquor store as defined
5 in 16-1-106;

6 (iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a
7 felony, rights have been restored;

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

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

12 (vi) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is
13 owned or controlled by a manufacturer of an alcoholic beverage; and

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

15 (i) the owners of at least 51% of the outstanding stock meet the requirements of subsection
16 (4)(a)(iii);

17 (ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual
18 listed in subsection (4)(a) of this section;

19 (iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is
20 owned or controlled by a manufacturer of an alcoholic beverage; and

21 (iv) the corporation is authorized to do business in Montana; and

22 (c) in the case of any other business entity as applicant:

23 (i) if the applicant consists of more than one individual, all must meet the requirements of
24 subsection (4)(a); and

25 (ii) if the applicant consists of more than one corporation, all must meet the requirements of
26 subsection (4)(b).

27 (5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)
28 apply separately to each class of stock.

29 (6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant
30 to 16-4-302.

1 (7) The issuance of a license and subsequent manufacture of beer on premises licensed for
 2 on-premise consumption as provided in 16-4-101(2) does not constitute interest in a manufacturer that is
 3 prohibited in subsection (2)(a)(iii)."

4
 5 **Section 8.** Section 16-6-301, MCA, is amended to read:

6 "**16-6-301. Transfer, sale, and possession of alcoholic beverages -- when unlawful.** (1) Except as
 7 provided by this code, ~~no~~ a person or the person's agents or employees shall ~~may not, within the state,~~
 8 ~~by himself, his clerk, servant, or agent;~~

9 (a) expose or keep an alcoholic beverage for sale or;

10 (b) directly or indirectly or upon any pretense or upon any device, sell or offer to sell an alcoholic
 11 beverage; or,

12 (c) in consideration of the purchase or transfer of any property or for any other consideration or
 13 at the time of the transfer of any property, give to any other person any an alcoholic beverage.

14 (2) ~~No~~ A person shall may not have or keep any alcoholic beverage ~~which that~~ has not been
 15 purchased within the state of Montana.

16 (3) Nothing in this code shall This section does not prohibit;

17 (a) any a person entering this state from any other another state or from any foreign country from
 18 having in his the person's possession an amount not to exceed 3 wine gallons of alcoholic beverage which
 19 beverage shall have been that was purchased in another state or foreign country, but no person claiming
 20 to have so entered the state shall at any time have in his possession more than 3 wine gallons of alcoholic
 21 beverage which shall not have been purchased within the state of Montana;

22 (b) possession of beer produced for personal or family use and not intended for sale that meets the
 23 exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer,
 24 for personal or family use, on premises other than those of the person brewing the beer;

25 (c) This subsection shall not apply to the department or to the keeping or having of possession of
 26 alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the
 27 manufacture of such those alcoholic beverages; or

28 (d) to the keeping or having of any possession of proprietary or patent medicines or of any
 29 extracts, essences, tinctures, or preparations where such having and keeping if the possession is authorized
 30 by this code; or

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0604, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act relating to brewing beer in Montana; allowing certain domestic breweries to obtain an endorsement to sell for on- and off-premise consumption beer brewed on the premises; providing that a brewer that sells beer for on-premise consumption may not have gambling on the premises; providing that malting barley machinery and equipment are classified as class 6 property; providing that premises licensed for on-premise consumption of alcohol may be licensed as a brewery if gambling does not occur on the premises; authorizing home brewing that meets the requirements of federal law.

ASSUMPTIONS:

1. This note does not attempt to estimate the revenue impact of the proposed legislation on malting barley facilities that may begin operation within the state (MDOR).
2. This note does not attempt to estimate the revenue impact of the proposed legislation on additional breweries that may begin operation within the state (MDOR).
3. Under the proposed legislation, 10 of the 15 Montana breweries currently issued a license to manufacture beer (under MCA 16-4-101) would apply for an on-premise consumption license endorsement during the biennium. The bill provides for a initial \$500 fee for these license endorsements (MDOR).
4. Any change in the overall beer consumption in the state will not significantly impact Beer Tax revenues (MDOR).
5. The effective date of the proposed legislation is October 1, 1997 (MDOR).
6. Beer manufactured for personal or family use is currently not taxed in Montana (MDOR).

FISCAL IMPACT:

Expenditures:

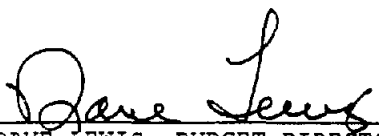
There is no significant impact to department expenditures under the proposed legislation.

Revenues:

Given the above assumptions, the proposed legislation would generate \$5,000 in additional license revenue to the General Fund during the FY98-FY99 biennium. To the extent that the proposed legislation causes new breweries to establish operation in the state, license tax revenues from breweries would increase.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

To the extent that the proposed legislation causes new breweries and or malting barley facilities to establish operation in Montana, local and state property tax revenues would increase. However, under the proposed legislation, equipment and machinery used in malting barley facilities would be taxed as Class 6 property (4% of market value) instead of Class 8 property (6% of market value), therefore reducing property tax revenues received from a malting barley facility which planned on locating in Montana regardless of the reduced tax rate contained in the proposed legislation.

 3.14.97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for HB0604, as introduced

HB 604

1 HOUSE BILL NO. 604

2 INTRODUCED BY HARPER, ROSE, GRADY, ELLIS, KEENAN, REAM, JENKINS, PECK, OHS, REHBEIN,
3 ZOOK, MCCANN, GAGE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO BREWING BEER IN MONTANA; ALLOWING
6 CERTAIN DOMESTIC BREWERIES TO OBTAIN AN ENDORSEMENT TO SELL FOR ON- AND OFF-PREMISE
7 CONSUMPTION BEER BREWED ON THE PREMISES; PROVIDING THAT A BREWER THAT SELLS BEER FOR
8 ON-PREMISE CONSUMPTION MAY NOT HAVE GAMBLING ON THE PREMISES; PROVIDING THAT
9 MALTING BARLEY MACHINERY AND EQUIPMENT ARE CLASSIFIED AS CLASS 6 PROPERTY; PROVIDING
10 THAT PREMISES LICENSED FOR ON-PREMISE CONSUMPTION OF ALCOHOL MAY BE LICENSED AS A
11 BREWERY IF GAMBLING DOES NOT OCCUR ON THE PREMISES; AUTHORIZING HOME BREWING THAT
12 MEETS THE REQUIREMENTS OF FEDERAL LAW; AND AMENDING SECTIONS 15-6-136, 16-3-201,
13 ~~16-3-213, 16-3-242, 16-4-101, 16-4-401~~, AND 16-6-301, MCA."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 ~~NEW SECTION. Section 1. Domestic breweries — retail sale of brewed beer or malt beverages —~~
18 ~~gambling prohibited. (1) A brewery located in Montana and licensed as provided in Title 16, chapter 4,~~
19 ~~and that manufactures not more than 15,000 barrels of beer in a year may:~~

20 ~~(a) at the brewery, sell beer that it brews on the premises directly to the consumer for consumption~~
21 ~~on or off the premises;~~

22 ~~(b) provide, without charge, beer that it manufactures for consumption at the brewery at a location~~
23 ~~other than where retail sales are made.~~

24 ~~(2) Prior to selling beer that it brews directly to consumers, a brewer shall obtain an on-premises~~
25 ~~consumption endorsement of its brewer's license from the department. A written application with an~~
26 ~~application fee of \$500 must be submitted to the department for its approval. The endorsement must be~~
27 ~~renewed annually upon payment of an annual fee of \$50. A brewery may not be granted an endorsement,~~
28 ~~or an issued endorsement must be revoked if:~~

29 ~~(a) the department determines that the applicant's or endorsement holder's premises are unsuitable~~
30 ~~for on-premise consumption of beer;~~

1 ~~(b) the applicant or endorsement holder has been convicted of illegal sales of beer or any other~~
 2 ~~violation of this code; or~~

3 ~~(c) gambling has occurred on the premises.~~

4 ~~(3) on-premise retail sales of beer may be conducted only between the hours of 8 a.m. and 10 p.m.~~

5 ~~(4) An endorsement issued under this section is not a license to sell alcoholic beverages for~~
 6 ~~consumption on the premises for the purposes of authorizing gambling or gaming on the premises as~~
 7 ~~provided in Title 23, chapter 5.~~

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9 **Section 1.** Section 15-6-136, MCA, is amended to read:

10 **" 15-6-136. Class six property -- description -- taxable percentage.** (1) Class six property includes:

11 (a) livestock and other species of domestic animals and wildlife raised in domestication or a captive
 12 environment, except for cats, dogs, and other household pets not raised for profit;

13 (b) items of personal property intended for rent or lease in the ordinary course of business,
 14 provided each item of personal property satisfies all of the following:

15 (i) the full and true value of the personal property is less than \$5,000;

16 (ii) the personal property is owned by a business whose primary business income is from rental or
 17 lease of personal property to individuals wherein no one customer of the business accounts for more than
 18 10% of the total rentals or leases during a calendar year; ~~and~~

19 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis; and

20 (c) machinery and equipment used in canola seed oil processing facilities if:

21 (i) the operators of such facilities employ a minimum of 15 full-time employees; and

22 (ii) a canola seed oil processing facility locates in the state of Montana after July 25, 1989; and

23 (d) machinery and equipment used in a malting barley facility.

24 (2) "Canola seed oil processing facility" means a facility that:

25 (a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and
 26 packages the edible oil into food products, or engages in any one or more of those processes; and

27 (b) employs at least 15 employees in a full-time capacity.

28 (3) "Malting barley facility" means a facility and integral machinery and equipment used principally
 29 to malt malting barley and includes machinery and equipment to mix, blend, transport, transfer, or process
 30 the barley and malt at the facility.

1 ~~(3)~~(4) Class six property is taxed at 4% of its market value."

2

3 **Section 2.** Section 16-3-201, MCA, is amended to read:

4 "16-3-201. **Possession, manufacture, importation, or disposal of beer in manner other than**
5 **prescribed unlawful -- personal brewing.** (1) It shall be is unlawful to manufacture, import, sell or dispose
6 of, or possess for the purpose of sale beer of any kind or character of an alcoholic content greater than
7 herein prescribed authorized or other than in the manner permitted by this code.

8 (2) This code does not prohibit the manufacture of beer, for personal or family use and not intended
9 for sale, that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section,
10 including the brewing of beer, for personal or family use, on premises other than those of the person
11 brewing the beer."

12

13 **Section 4.** ~~Section 16-3-213, MCA, is amended to read:~~

14 ~~"16-3-213. **Brewers or beer importers not to retail beer -- original package and taproom**~~
15 ~~**exceptions.** (1) It shall be Unless licensed under 16-4-101(2), it is unlawful for any brewer or breweries~~
16 ~~or beer importer to have or own any permit to sell or to retail beer at any place or premises, it being the~~
17 ~~declared intention to prohibit brewers and beer importers from engaging in the retail dispensation of beer;~~
18 ~~provided, however, that this shall not be so construed as to:~~

19 ~~(2) Subsection (1) does not prohibit breweries from:~~

20 ~~(a) making sale and delivery of selling or delivering beer manufactured by them, in original~~
21 ~~packages, at either wholesale or retail, or;~~

22 ~~(b) from providing, without charge, their products for consumption on their licensed premises; or~~

23 ~~(c) otherwise selling beer in accordance with section 1."~~

24

25 **Section 5.** ~~Section 16-3-242, MCA, is amended to read:~~

26 ~~"16-3-242. **Financial interest in retailers prohibited.** (1) No A brewer, beer importer, or wholesaler~~
27 ~~shall may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any~~
28 ~~license or tax which may be required to be paid for any retailer, and no a brewer, beer importer, or~~
29 ~~wholesaler shall may not be financially interested, either directly or indirectly, in the conduct or operation~~
30 ~~of the business of a retailer. A brewer, beer importer, or wholesaler shall be deemed is considered to have~~

1 such a financial interest within the meaning of this section if:

2 ~~(1)(a) such the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or~~
3 ~~mortgage against the retailer or his the premises;~~

4 ~~(2)(b) such the brewer, beer importer, or wholesaler is under any contract with a retailer concerning~~
5 ~~future purchases and/or or sale, or both, of merchandise by one from or to the other;~~

6 ~~(3)(c) any retailer holds an interest, as a stockholder or otherwise, in the business of the~~
7 ~~wholesaler.~~

8 ~~(2) The issuance of a license and subsequent manufacture of beer on premises licensed for~~
9 ~~on premise consumption as provided in 16-4-101(2) does not constitute interest in a brewer that is~~
10 ~~prohibited by this section."~~

11

12 **Section 6.** Section 16-4-101, MCA, is amended to read:

13 ~~"16-4-101. Applications for sale, import, or manufacture of beer — qualifications of applicant. (1)~~

14 ~~(a) Any person desiring to manufacture, import, or sell beer under the provisions of this code shall first~~
15 ~~apply to the department for a license to do so and pay with such the application the license fee prescribed.~~
16 ~~The department shall require of such the applicant satisfactory evidence that the applicant is of good moral~~
17 ~~character and a law-abiding person.~~

18 ~~(2)(b) Upon being satisfied, from such the application or otherwise, that such the applicant is~~
19 ~~qualified, the department shall issue such the license to such the person, which The license shall must be~~
20 ~~at all times prominently displayed in the place of business of such the applicant.~~

21 ~~(3)(c) If the department shall find finds that such the applicant is not qualified, no a license shall~~
22 ~~may not be granted and such the license fee shall must be returned.~~

23 ~~(2) The department shall grant a license under this section to a holder of an all beverages license~~
24 ~~for on premise consumption of alcohol issued under 16-4-201 to manufacture beer on the premises if the~~
25 ~~premises are not licensed for gambling or gaming under the provisions of Title 23, chapter 5. The license~~
26 ~~granted under this section must be revoked if gambling occurs on the premises.~~

27 ~~(3) A person manufacturing beer for personal or family use under 16-3-201(2) is not required to~~
28 ~~be licensed."~~

29

30 **Section 7.** Section 16-4-401, MCA, is amended to read:

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

4 ~~(2) Except as provided in subsection (6), in the case of a license that permits on premises~~
5 ~~consumption, the department must shall find in every case in which it makes an order for the issuance of~~
6 ~~a new license or for the approval of the transfer of a license that:~~

7 ~~(a) in the case of an individual applicant:~~

8 ~~(i) the applicant will may not possess an ownership interest in more than one establishment~~
9 ~~licensed under this chapter for all beverages sales;~~

10 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
11 ~~in 16-1-106;~~

12 ~~(iii) except as provided in subsection (7) the applicant or any member of the applicant's immediate~~
13 ~~family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of~~
14 ~~alcoholic beverages;~~

15 ~~(iv) the applicant is a resident of the state and is qualified to vote in a state election;~~

16 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
17 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in~~
18 ~~compliance with all applicable laws of the state and local governments; and~~

19 ~~(vi) the applicant is not under the age of 19 years; and~~

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

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

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

25 ~~(iii) the corporation is authorized to do business in Montana; and~~

26 ~~(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets~~
27 ~~the requirements of subsections (2)(a)(i) and (2)(a)(ii); and~~

28 ~~(c) in the case of any other business entity as applicant:~~

29 ~~(i) if the applicant consists of more than one individual, all must meet the requirements of~~
30 ~~subsection (2)(a); and~~

- 1 ~~(ii) if the applicant consists of more than one corporation, all must meet the requirements of~~
2 ~~subsection (2)(b).~~
- 3 ~~(3) In the case of a license that permits only off premises consumption, the department must shall~~
4 ~~find in every case in which it makes an order for the issuance of a new license or for the approval of the~~
5 ~~transfer of a license that:~~
- 6 ~~(a) in the case of an individual applicant:~~
- 7 ~~(i) the applicant will may not possess an ownership interest in more than one establishment~~
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- 9 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
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- 11 ~~(iii) the applicant or any member of the applicant's immediate family is without financing from or~~
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- 13 ~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a~~
14 ~~felony, the applicant's rights have been restored;~~
- 15 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
16 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in~~
17 ~~compliance with all applicable laws of the state and local governments; and~~
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- 19 ~~(b) in the case of a corporate applicant:~~
- 20 ~~(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection~~
21 ~~(3)(a)(iv);~~
- 22 ~~(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual~~
23 ~~listed in subsection (3)(a) of this section; and~~
- 24 ~~(iii) the corporation is authorized to do business in Montana; and~~
- 25 ~~(c) in the case of any other business entity as applicant:~~
- 26 ~~(i) if the applicant consists of more than one individual, all must meet the requirements of~~
27 ~~subsection (3)(a); and~~
- 28 ~~(ii) if the applicant consists of more than one corporation, all must meet the requirements of~~
29 ~~subsection (3)(b).~~
- 30 ~~(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic~~

- 1 ~~beverage, the department must shall find in every case in which it makes an order for the issuance of a new~~
2 ~~license or for the approval of the transfer of a license that:~~
- 3 ~~(a) in the case of an individual applicant:~~
- 4 ~~(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail~~
5 ~~alcoholic beverages sales;~~
- 6 ~~(ii) the applicant ~~does~~ may not possess an ownership interest in an agency liquor store as defined~~
7 ~~in ~~16-1-106~~;~~
- 8 ~~(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a~~
9 ~~felony, rights have been restored;~~
- 10 ~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
11 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in~~
12 ~~compliance with all applicable laws of the state and local governments;~~
- 13 ~~(v) the applicant is not under the age of 19 years; and~~
- 14 ~~(vi) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is~~
15 ~~owned or controlled by a manufacturer of an alcoholic beverage; and~~
- 16 ~~(b) in the case of a corporate applicant:~~
- 17 ~~(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection~~
18 ~~(4)(a)(iii);~~
- 19 ~~(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual~~
20 ~~listed in subsection (4)(a) of this section;~~
- 21 ~~(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is~~
22 ~~owned or controlled by a manufacturer of an alcoholic beverage; and~~
- 23 ~~(iv) the corporation is authorized to do business in Montana; and~~
- 24 ~~(c) in the case of any other business entity as applicant:~~
- 25 ~~(i) if the applicant consists of more than one individual, all must meet the requirements of~~
26 ~~subsection (4)(a); and~~
- 27 ~~(ii) if the applicant consists of more than one corporation, all must meet the requirements of~~
28 ~~subsection (4)(b).~~
- 29 ~~(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)~~
30 ~~apply separately to each class of stock.~~

1 ~~(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant~~
2 ~~to 16-4-302.~~

3 ~~(7) The issuance of a license and subsequent manufacture of beer on premises licensed for~~
4 ~~on-premise consumption as provided in 16-4-101(2) does not constitute interest in a manufacturer that is~~
5 ~~prohibited in subsection (2)(a)(iii)."~~

6

7 **Section 3.** Section 16-6-301, MCA, is amended to read:

8 "**16-6-301. Transfer, sale, and possession of alcoholic beverages -- when unlawful.** (1) Except as
9 provided by this code, ~~no~~ a person or the person's agents or employees shall may not, within the state,
10 by himself, his clerk, servant, or agent;

11 (a) expose or keep an alcoholic beverage for sale or;

12 (b) directly or indirectly or upon any pretense or upon any device, sell or offer to sell an alcoholic
13 beverage; or,

14 (c) in consideration of the purchase or transfer of any property or for any other consideration or
15 at the time of the transfer of any property, give to any other person any an alcoholic beverage.

16 (2) ~~No~~ A person shall may not have or keep any alcoholic beverage ~~which that~~ has not been
17 purchased within the state of Montana.

18 (3) ~~Nothing in this code shall~~ This section does not prohibit:

19 (a) any a person entering this state from any other another state or from any foreign country from
20 having in his the person's possession an amount not to exceed 3 wine gallons of alcoholic beverage which
21 beverage shall have been that was purchased in another state or foreign country, ~~but no person claiming~~
22 ~~to have so entered the state shall at any time have in his possession more than 3 wine gallons of alcoholic~~
23 ~~beverage which shall not have been purchased within the state of Montana;~~

24 (b) possession of beer produced for personal or family use and not intended for sale that meets the
25 exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer,
26 for personal or family use, on premises other than those of the person brewing the beer;

27 (c) This subsection shall not apply to the department or to the keeping or having of possession of
28 alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the
29 manufacture of such those alcoholic beverages; or

30 (d) to the keeping or having of any possession of proprietary or patent medicines or of any

1 extracts, essences, tinctures, or preparations ~~where such having and keeping~~ if the possession is authorized
2 by this code; or

3 ~~(3)(e) Nothing contained in this section shall apply to the possession by a sheriff or his bailiff of~~
4 alcoholic beverages seized under execution or other judicial or extrajudicial process or ~~to~~ sales under
5 executions or other judicial or extrajudicial process to the department or a licensee.

6 (4) Except as provided in this code, ~~no~~ a person or the person's agents or employees shall, within
7 ~~the state, by himself, his clerk, servant, or agent~~ may not:

8 (a) attempt to purchase any alcoholic beverage;

9 (b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or

10 (c) in consideration of the sale or transfer of any property or for any other consideration or at the
11 time of the transfer of any property, take or accept from any other person any alcoholic beverage."

12
13 ~~NEW SECTION. Section 9. Codification instruction. [Section 1] is intended to be codified as an~~
14 ~~integral part of Title 16, chapter 3, part 2, and the provisions of Title 16, chapter 3, part 2, apply to~~
15 ~~{section 1}.~~

16 -END-

1 HOUSE BILL NO. 604

2 INTRODUCED BY HARPER, ROSE, GRADY, ELLIS, KEENAN, REAM, JENKINS, PECK, OHS, REHBEIN,
3 ZOOK, MCCANN, GAGE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO BREWING BEER IN MONTANA; ALLOWING
6 ~~CERTAIN DOMESTIC BREWERIES TO OBTAIN AN ENDORSEMENT TO SELL FOR ON- AND OFF-PREMISE~~
7 ~~CONSUMPTION BEER BREWED ON THE PREMISES; PROVIDING THAT A BREWER THAT SELLS BEER FOR~~
8 ~~ON-PREMISE CONSUMPTION MAY NOT HAVE GAMBLING ON THE PREMISES; PROVIDING THAT~~
9 MALTING BARLEY MACHINERY AND EQUIPMENT ARE CLASSIFIED AS CLASS 6 PROPERTY; PROVIDING
10 THAT PREMISES LICENSED FOR ON-PREMISE CONSUMPTION OF ALCOHOL MAY BE LICENSED AS A
11 ~~BREWERY IF GAMBLING DOES NOT OCCUR ON THE PREMISES; AUTHORIZING HOME BREWING THAT~~
12 MEETS THE REQUIREMENTS OF FEDERAL LAW; AND AMENDING SECTIONS 15-6-136, 16-3-201,
13 ~~16-3-213, 16-3-242, 16-4-101, 16-4-401, AND 16-6-301, MCA."~~

14
15 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.**

1 HOUSE BILL NO. 604

2 INTRODUCED BY HARPER, ROSE, GRADY, ELLIS, KEENAN, REAM, JENKINS, PECK, OHS, REHBEIN,
3 ZOOK, MCCANN, GAGE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO BREWING BEER IN MONTANA; ALLOWING
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12 MEETS THE REQUIREMENTS OF FEDERAL LAW; AND AMENDING SECTIONS 15-6-136, 16-3-201,
13 ~~16-3-213, 16-3-242, 16-4-101, 16-4-401, AND 16-6-301, MCA."~~

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 ~~NEW SECTION. Section 1. Domestic breweries—retail sale of brewed beer or malt beverages—~~
18 ~~gambling prohibited. (1) A brewery located in Montana and licensed as provided in Title 16, chapter 4,~~
19 ~~and that manufactures not more than 15,000 barrels of beer in a year may:~~

20 ~~(a) at the brewery, sell beer that it brews on the premises directly to the consumer for consumption~~
21 ~~on or off the premises;~~

22 ~~(b) provide, without charge, beer that it manufactures for consumption at the brewery at a location~~
23 ~~other than where retail sales are made.~~

24 ~~(2) Prior to selling beer that it brews directly to consumers, a brewer shall obtain an on-premises~~
25 ~~consumption endorsement of its brewer's licence from the department. A written application with an~~
26 ~~application fee of \$500 must be submitted to the department for its approval. The endorsement must be~~
27 ~~renewed annually upon payment of an annual fee of \$50. A brewery may not be granted an endorsement,~~
28 ~~or an issued endorsement must be revoked if:~~

29 ~~(a) the department determines that the applicant's or endorsement holder's premises are unsuitable~~
30 ~~for on-premise consumption of beer;~~

1 ~~(b) the applicant or endorsement holder has been convicted of illegal sales of beer or any other~~
 2 ~~violation of this code; or~~

3 ~~(c) gambling has occurred on the premises.~~

4 ~~(3) on-premise retail sales of beer may be conducted only between the hours of 8 a.m. and 10 p.m.~~

5 ~~(4) An endorsement issued under this section is not a license to sell alcoholic beverages for~~
 6 ~~consumption on the premises for the purposes of authorizing gambling or gaming on the premises as~~
 7 ~~provided in Title 23, chapter 5.~~

8
 9 **Section 1.** Section 15-6-136, MCA, is amended to read:

10 **"15-6-136. Class six property -- description -- taxable percentage.** (1) Class six property includes:

11 (a) livestock and other species of domestic animals and wildlife raised in domestication or a captive
 12 environment, except for cats, dogs, and other household pets not raised for profit;

13 (b) items of personal property intended for rent or lease in the ordinary course of business,
 14 provided each item of personal property satisfies all of the following:

15 (i) the full and true value of the personal property is less than \$5,000;

16 (ii) the personal property is owned by a business whose primary business income is from rental or
 17 lease of personal property to individuals wherein no one customer of the business accounts for more than
 18 10% of the total rentals or leases during a calendar year; ~~and~~

19 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis; and

20 (c) machinery and equipment used in canola seed oil processing facilities if:

21 (i) the operators of such facilities employ a minimum of 15 full-time employees; and

22 (ii) a canola seed oil processing facility locates in the state of Montana after July 25, 1989; and

23 (d) machinery and equipment used in a malting barley facility.

24 (2) "Canola seed oil processing facility" means a facility that:

25 (a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and
 26 packages the edible oil into food products, or engages in any one or more of those processes; and

27 (b) employs at least 15 employees in a full-time capacity.

28 (3) "Malting barley facility" means a facility and integral machinery and equipment used principally
 29 to malt malting barley and includes machinery and equipment to mix, blend, transport, transfer, or process
 30 the barley and malt at the facility.

1 ~~(3)~~(4) Class six property is taxed at 4% of its market value."

2

3 Section 2. Section 16-3-201, MCA, is amended to read:

4 "16-3-201. Possession, manufacture, importation, or disposal of beer in manner other than
5 prescribed unlawful -- personal brewing. (1) It shall be is unlawful to manufacture, import, sell or dispose
6 of, or possess for the purpose of sale beer of any kind or character of an alcoholic content greater than
7 herein prescribed authorized or other than in the manner permitted by this code.

8 (2) This code does not prohibit the manufacture of beer, for personal or family use and not intended
9 for sale, that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section,
10 including the brewing of beer, for personal or family use, on premises other than those of the person
11 brewing the beer."

12

13 ~~Section 4. Section 16-3-213, MCA, is amended to read:~~

14 ~~"16-3-213. Brewers or beer importers not to retail beer -- original package and taproom~~
15 ~~exceptions. (1) It shall be Unless licensed under 16-4-101(2), it is unlawful for any brewer or breweries~~
16 ~~or beer importer to have or own any permit to sell or to retail beer at any place or premises, it being the~~
17 ~~declared intention to prohibit brewers and beer importers from engaging in the retail dispensation of beer;~~
18 ~~provided, however, that this shall not be so construed as to:~~

19 ~~(2) Subsection (1) does not prohibit breweries from:~~

20 ~~(a) making sale and delivery of selling or delivering beer manufactured by them, in original~~
21 ~~packages, at either wholesale or retail, or;~~

22 ~~(b) from providing, without charge, their products for consumption on their licensed premises; or~~

23 ~~(c) otherwise selling beer in accordance with [section 1]."~~

24

25 ~~Section 5. Section 16-3-242, MCA, is amended to read:~~

26 ~~"16-3-242. Financial interest in retailers prohibited. (1) No A brewer, beer importer, or wholesaler~~
27 ~~shall may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any~~
28 ~~license or tax which may be required to be paid for any retailer, and no a brewer, beer importer, or~~
29 ~~wholesaler shall may not be financially interested, either directly or indirectly, in the conduct or operation~~
30 ~~of the business of a retailer. A brewer, beer importer, or wholesaler shall be deemed is considered to have~~

1 such a financial interest within the meaning of this section if:

2 ~~(1)(a) such the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or~~
3 ~~mortgage against the retailer or his the premises;~~

4 ~~(2)(b) such the brewer, beer importer, or wholesaler is under any contract with a retailer concerning~~
5 ~~future purchases and/or or sale, or both, of merchandise by one from or to the other;~~

6 ~~(3)(c) any retailer holds an interest, as a stockholder or otherwise, in the business of the~~
7 ~~wholesaler.~~

8 ~~(2) The issuance of a licence and subsequent manufacture of beer on premises licensed for~~
9 ~~on premise consumption as provided in 16-4-101(2) does not constitute interest in a brewer that is~~
10 ~~prohibited by this section."~~

11

12 ~~Section 6. Section 16-4-101, MCA, is amended to read:~~

13 ~~"16-4-101. Applications for sale, import, or manufacture of beer — qualifications of applicant. (1)~~

14 ~~(a) Any person desiring to manufacture, import, or sell beer under the provisions of this code shall first~~
15 ~~apply to the department for a licence to do so and pay with such the application the license fee prescribed.~~
16 ~~The department shall require of such the applicant satisfactory evidence that the applicant is of good moral~~
17 ~~character and a law abiding person.~~

18 ~~(2)(b) Upon being satisfied, from such the application or otherwise, that such the applicant is~~
19 ~~qualified, the department shall issue such the license to such the person, which The license shall must be~~
20 ~~at all times prominently displayed in the place of business of such the applicant.~~

21 ~~(3)(c) If the department shall find finds that such the applicant is not qualified, no a license shall~~
22 ~~may not be granted and such the license fee shall must be returned.~~

23 ~~(2) The department shall grant a licence under this section to a holder of an all beverages licence~~
24 ~~for on premise consumption of alcohol issued under 16-4-201 to manufacture beer on the premises if the~~
25 ~~premises are not licensed for gambling or gaming under the provisions of Title 23, chapter 5. The license~~
26 ~~granted under this section must be revoked if gambling occurs on the premises.~~

27 ~~(3) A person manufacturing beer for personal or family use under 16-3-201(2) is not required to~~
28 ~~be licensed."~~

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30 ~~Section 7. Section 16-4-401, MCA, is amended to read:~~

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 2 ~~is a privilege which that the state may grant to an applicant and is not a right to which any applicant is~~
 3 ~~entitled.~~

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 5 ~~consumption, the department must shall find in every case in which it makes an order for the issuance of~~
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7 ~~(a) in the case of an individual applicant:~~

8 ~~(i) the applicant will may not possess an ownership interest in more than one establishment~~
 9 ~~licensed under this chapter for all beverages sales;~~

10 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
 11 ~~in 16-1-106;~~

12 ~~(iii) except as provided in subsection (7) the applicant or any member of the applicant's immediate~~
 13 ~~family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of~~
 14 ~~alcoholic beverages;~~

15 ~~(iv) the applicant is a resident of the state and is qualified to vote in a state election;~~

16 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
 17 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in~~
 18 ~~compliance with all applicable laws of the state and local governments; and~~

19 ~~(vi) the applicant is not under the age of 19 years; and~~

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

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

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 30 ~~subsection (2)(a); and~~

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- 9 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
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- 11 ~~(iii) the applicant or any member of the applicant's immediate family is without financing from or~~
12 ~~any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;~~
- 13 ~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a~~
14 ~~felony, the applicant's rights have been restored;~~
- 15 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
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17 ~~compliance with all applicable laws of the state and local governments; and~~
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23 ~~listed in subsection (3)(a) of this section; and~~
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- 30 ~~(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic~~

1 ~~beverage, the department must shall find in every case in which it makes an order for the issuance of a new~~
2 ~~licence or for the approval of the transfer of a licence that:~~

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

4 ~~(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail~~
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6 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
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22 ~~owned or controlled by a manufacturer of an alcoholic beverage; and~~

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27 ~~(ii) if the applicant consists of more than one corporation, all must meet the requirements of~~
28 ~~subsection (4)(b).~~

29 ~~(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)~~
30 ~~apply separately to each class of stock.~~

1 ~~(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant~~
2 ~~to 16-4-302.~~

3 ~~(7) The issuance of a license and subsequent manufacture of beer on premises licensed for~~
4 ~~on-premise consumption as provided in 16-4-101(2) does not constitute interest in a manufacturer that is~~
5 ~~prohibited in subsection (2)(a)(iii)."~~

6
7 **Section 3.** Section 16-6-301, MCA, is amended to read:

8 "**16-6-301. Transfer, sale, and possession of alcoholic beverages -- when unlawful.** (1) Except as
9 provided by this code, ~~no~~ a person or the person's agents or employees shall may not, within the state,
10 by himself, his clerk, servant, or agent;

11 (a) expose or keep an alcoholic beverage for sale or;

12 (b) directly or indirectly or upon any pretense or upon any device, sell or offer to sell an alcoholic
13 beverage; or;

14 (c) in consideration of the purchase or transfer of any property or for any other consideration or
15 at the time of the transfer of any property, give to any other person any an alcoholic beverage.

16 (2) ~~No~~ A person shall may not have or keep any alcoholic beverage ~~which that~~ has not been
17 purchased within the state of Montana.

18 ~~(3) Nothing in this code shall~~ This section does not prohibit;

19 (a) any a person entering this state from any other another state or from any foreign country from
20 having in his the person's possession an amount not to exceed 3 wine gallons of alcoholic beverage which
21 beverage shall have been that was purchased in another state or foreign country, but no person claiming
22 to have entered the state shall at any time have in his possession more than 3 wine gallons of alcoholic
23 beverage which shall not have been purchased within the state of Montana;

24 (b) possession of beer produced for personal or family use and not intended for sale that meets the
25 exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer,
26 for personal or family use, on premises other than those of the person brewing the beer;

27 ~~(c) This subsection shall not apply to the department or to the keeping or having of possession of~~
28 alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the
29 manufacture of such those alcoholic beverages; or

30 ~~(d) to the keeping or having of any possession of~~ proprietary or patent medicines or of any

1 extracts, essences, tinctures, or preparations ~~where such having and keeping if the possession~~ is authorized
2 by this code; or

3 ~~(3)(e) Nothing contained in this section shall apply to the possession by a sheriff or his bailiff of~~
4 alcoholic beverages seized under execution or other judicial or extrajudicial process or ~~to~~ sales under
5 executions or other judicial or extrajudicial process to the department or a licensee.

6 (4) Except as provided in this code, ~~no a person or the person's agents or employees shall, within~~
7 ~~the state, by himself, his clerk, servant, or agent~~ may not:

- 8 (a) attempt to purchase any alcoholic beverage;
- 9 (b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or
- 10 (c) in consideration of the sale or transfer of any property or for any other consideration or at the
11 time of the transfer of any property, take or accept from any other person any alcoholic beverage."

12
13 ~~NEW SECTION. Section 9. Codification instruction. [Section 1] is intended to be codified as an~~
14 ~~integral part of Title 16, chapter 3, part 2, and the provisions of Title 16, chapter 3, part 2, apply to~~
15 ~~{section 1}.~~

16 -END-

HOUSE BILL NO. 604

INTRODUCED BY HARPER, ROSE, GRADY, ELLIS, KEENAN, REAM, JENKINS, PECK, OHS, REHBEIN,
ZOOK, MCCANN, GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO BREWING BEER IN MONTANA; ALLOWING
~~CERTAIN DOMESTIC BREWERIES TO OBTAIN AN ENDORSEMENT TO SELL FOR ON AND OFF PREMISE~~
~~CONSUMPTION BEER BREWED ON THE PREMISES; PROVIDING THAT A BREWER THAT SELLS BEER FOR~~
~~ON PREMISE CONSUMPTION MAY NOT HAVE GAMBLING ON THE PREMISES; PROVIDING THAT~~
MALTING BARLEY MACHINERY AND EQUIPMENT ARE CLASSIFIED AS CLASS 6 PROPERTY; ~~PROVIDING~~
~~THAT PREMISES LICENSED FOR ON PREMISE CONSUMPTION OF ALCOHOL MAY BE LICENSED AS A~~
~~BREWERY IF GAMBLING DOES NOT OCCUR ON THE PREMISES; AUTHORIZING HOME BREWING THAT~~
MEETS THE REQUIREMENTS OF FEDERAL LAW; AND AMENDING SECTIONS 15-6-136, 16-3-201,
~~16-3-213, 16-3-242, 16-4-101, 16-4-401, AND 16-6-301, MCA."~~

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

~~NEW SECTION. Section 1. Domestic breweries retail sale of brewed beer or malt beverages~~
~~gambling prohibited. (1) A brewery located in Montana and licensed as provided in Title 16, chapter 4,~~
~~and that manufactures not more than 15,000 barrels of beer in a year may:~~

~~(a) at the brewery, sell beer that it brews on the premises directly to the consumer for consumption~~
~~on or off the premises;~~

~~(b) provide, without charge, beer that it manufactures for consumption at the brewery at a location~~
~~other than where retail sales are made.~~

~~(2) Prior to selling beer that it brews directly to consumers, a brewer shall obtain an on premises~~
~~consumption endorsement of its brewer's license from the department. A written application with an~~
~~application fee of \$500 must be submitted to the department for its approval. The endorsement must be~~
~~renewed annually upon payment of an annual fee of \$50. A brewery may not be granted an endorsement,~~
~~or an issued endorsement must be revoked if:~~

~~(a) the department determines that the applicant's or endorsement holder's premises are unsuitable~~
~~for on premise consumption of beer;~~

1 ~~(b) the applicant or endorsement holder has been convicted of illegal sales of beer or any other~~
 2 ~~violation of this code; or~~

3 ~~(c) gambling has occurred on the premises.~~

4 ~~(3) on-premise retail sales of beer may be conducted only between the hours of 8 a.m. and 10 p.m.~~

5 ~~(4) An endorsement issued under this section is not a license to sell alcoholic beverages for~~
 6 ~~consumption on the premises for the purposes of authorizing gambling or gaming on the premises as~~
 7 ~~provided in Title 23, chapter 5.~~

8

9 **Section 1.** Section 15-6-136, MCA, is amended to read:

10 **"15-6-136. Class six property -- description -- taxable percentage.** (1) Class six property includes:

11 (a) livestock and other species of domestic animals and wildlife raised in domestication or a captive
 12 environment, except for cats, dogs, and other household pets not raised for profit;

13 (b) items of personal property intended for rent or lease in the ordinary course of business,
 14 provided each item of personal property satisfies all of the following:

15 (i) the full and true value of the personal property is less than \$5,000;

16 (ii) the personal property is owned by a business whose primary business income is from rental or
 17 lease of personal property to individuals wherein no one customer of the business accounts for more than
 18 10% of the total rentals or leases during a calendar year; ~~and~~

19 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis; and

20 (c) machinery and equipment used in canola seed oil processing facilities if:

21 (i) the operators of such facilities employ a minimum of 15 full-time employees; and

22 (ii) a canola seed oil processing facility locates in the state of Montana after July 25, 1989; and

23 (d) machinery and equipment used in a malting barley facility.

24 (2) "Canola seed oil processing facility" means a facility that:

25 (a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and
 26 packages the edible oil into food products, or engages in any one or more of those processes; and

27 (b) employs at least 15 employees in a full-time capacity.

28 (3) "Malting barley facility" means a facility and integral machinery and equipment used principally
 29 to malt malting barley and includes machinery and equipment to mix, blend, transport, transfer, or process
 30 the barley and malt at the facility.

1 ~~(3)~~(4) Class six property is taxed at 4% of its market value."

2

3 Section 2. Section 16-3-201, MCA, is amended to read:

4 "16-3-201. Possession, manufacture, importation, or disposal of beer in manner other than
5 prescribed unlawful -- personal brewing. (1) It shall be is unlawful to manufacture, import, sell or dispose
6 of, or possess for the purpose of sale beer of any kind or character of an alcoholic content greater than
7 herein prescribed authorized or other than in the manner permitted by this code.

8 (2) This code does not prohibit the manufacture of beer, for personal or family use and not intended
9 for sale, that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section,
10 including the brewing of beer, for personal or family use, on premises other than those of the person
11 brewing the beer."

12

13 ~~Section 4. Section 16-3-213, MCA, is amended to read:~~

14 ~~"16-3-213. Brewers or beer importers not to retail beer -- original package and taproom~~
15 ~~exceptions. (1) It shall be Unless licensed under 16-4-101(2), it is unlawful for any brewer or breweries~~
16 ~~or beer importer to have or own any permit to sell or to retail beer at any place or premises, it being the~~
17 ~~declared intention to prohibit brewers and beer importers from engaging in the retail dispensation of beer;~~
18 ~~provided, however, that this shall not be so construed as to:~~

19 ~~(2) Subsection (1) does not prohibit breweries from;~~

20 ~~(a) making sale and delivery of selling or delivering beer manufactured by them, in original~~
21 ~~packages, at either wholesale or retail, or;~~

22 ~~(b) from providing, without charge, their products for consumption on their licensed premises; or~~

23 ~~(c) otherwise selling beer in accordance with [section 1]."~~

24

25 ~~Section 5. Section 16-3-242, MCA, is amended to read:~~

26 ~~"16-3-242. Financial interest in retailers prohibited. (1) No A brewer, beer importer, or wholesaler~~
27 ~~shall may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any~~
28 ~~license or tax which may be required to be paid for any retailer, and no a brewer, beer importer, or~~
29 ~~wholesaler shall may not be financially interested, either directly or indirectly, in the conduct or operation~~
30 ~~of the business of a retailer. A brewer, beer importer, or wholesaler shall be deemed is considered to have~~

1 such a financial interest within the meaning of this section if:

2 ~~(1)(a) such the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or~~
3 ~~mortgage against the retailer or his the premises;~~

4 ~~(2)(b) such the brewer, beer importer, or wholesaler is under any contract with a retailer concerning~~
5 ~~future purchases and/or or sale, or both, of merchandise by one from or to the other;~~

6 ~~(3)(c) any retailer holds an interest, as a stockholder or otherwise, in the business of the~~
7 ~~wholesaler.~~

8 ~~(2) The issuance of a license and subsequent manufacture of beer on premises licensed for~~
9 ~~on premise consumption as provided in 16-4-101(2) does not constitute interest in a brewer that is~~
10 ~~prohibited by this section."~~

11

12 **Section 6.** Section 16-4-101, MCA, is amended to read:

13 ~~"16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant. (1)~~

14 ~~(a) Any person desiring to manufacture, import, or sell beer under the provisions of this code shall first~~
15 ~~apply to the department for a license to do so and pay with such the application the license fee prescribed.~~
16 ~~The department shall require of such the applicant satisfactory evidence that the applicant is of good moral~~
17 ~~character and a law-abiding person.~~

18 ~~(2)(b) Upon being satisfied, from such the application or otherwise, that such the applicant is~~
19 ~~qualified, the department shall issue such the license to such the person, which The license shall must be~~
20 ~~at all times prominently displayed in the place of business of such the applicant.~~

21 ~~(3)(c) If the department shall find finds that such the applicant is not qualified, no a license shall~~
22 ~~may not be granted and such the license fee shall must be returned.~~

23 ~~(2) The department shall grant a license under this section to a holder of an all beverages license~~
24 ~~for on premise consumption of alcohol issued under 16-4-201 to manufacture beer on the premises if the~~
25 ~~premises are not licensed for gambling or gaming under the provisions of Title 23, chapter 5. The license~~
26 ~~granted under this section must be revoked if gambling occurs on the premises.~~

27 ~~(3) A person manufacturing beer for personal or family use under 16-3-201(2) is not required to~~
28 ~~be licensed."~~

29

30 **Section 7.** Section 16-4-101, MCA, is amended to read:

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

4 ~~(2) Except as provided in subsection (6), in the case of a license that permits on-premises~~
 5 ~~consumption, the department must shall find in every case in which it makes an order for the issuance of~~
 6 ~~a new license or for the approval of the transfer of a license that:~~

7 ~~(a) in the case of an individual applicant:~~

8 ~~(i) the applicant will may not possess an ownership interest in more than one establishment~~
 9 ~~licensed under this chapter for all beverages sales;~~

10 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
 11 ~~in 16-1-106;~~

12 ~~(iii) except as provided in subsection (7) the applicant or any member of the applicant's immediate~~
 13 ~~family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of~~
 14 ~~alcoholic beverages;~~

15 ~~(iv) the applicant is a resident of the state and is qualified to vote in a state election;~~

16 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
 17 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in~~
 18 ~~compliance with all applicable laws of the state and local governments; and~~

19 ~~(vi) the applicant is not under the age of 19 years; and~~

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

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

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

25 ~~(iii) the corporation is authorized to do business in Montana; and~~

26 ~~(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets~~
 27 ~~the requirements of subsections (2)(a)(i) and (2)(a)(iii); and~~

28 ~~(c) in the case of any other business entity as applicant:~~

29 ~~(i) if the applicant consists of more than one individual, all must meet the requirements of~~
 30 ~~subsection (2)(a); and~~

- 1 ~~(ii) if the applicant consists of more than one corporation, all must meet the requirements of~~
2 ~~subsection (2)(b).~~
- 3 ~~(3) In the case of a license that permits only off-premises consumption, the department must shall~~
4 ~~find in every case in which it makes an order for the issuance of a new license or for the approval of the~~
5 ~~transfer of a license that:~~
- 6 ~~(a) in the case of an individual applicant:~~
- 7 ~~(i) the applicant will may not possess an ownership interest in more than one establishment~~
8 ~~license under this chapter for all beverages sales;~~
- 9 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
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- 11 ~~(iii) the applicant or any member of the applicant's immediate family is without financing from or~~
12 ~~any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;~~
- 13 ~~(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a~~
14 ~~felony, the applicant's rights have been restored;~~
- 15 ~~(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a~~
16 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in~~
17 ~~compliance with all applicable laws of the state and local governments; and~~
- 18 ~~(vi) the applicant is not under the age of 19 years; and~~
- 19 ~~(b) in the case of a corporate applicant:~~
- 20 ~~(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection~~
21 ~~(3)(a)(iv);~~
- 22 ~~(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual~~
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27 ~~subsection (3)(a); and~~
- 28 ~~(ii) if the applicant consists of more than one corporation, all must meet the requirements of~~
29 ~~subsection (3)(b).~~
- 30 ~~(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic~~

1 ~~beverage, the department must shall find in every case in which it makes an order for the issuance of a new~~
2 ~~license or for the approval of the transfer of a license that:~~

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

4 ~~(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail~~
5 ~~alcoholic beverages sales;~~

6 ~~(ii) the applicant does may not possess an ownership interest in an agency liquor store as defined~~
7 ~~in 16-1-106;~~

8 ~~(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a~~
9 ~~felony, rights have been restored;~~

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11 ~~business person and citizen demonstrate that the applicant is likely to operate the establishment in~~
12 ~~compliance with all applicable laws of the state and local governments;~~

13 ~~(v) the applicant is not under the age of 19 years; and~~

14 ~~(vi) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is~~
15 ~~owned or controlled by a manufacturer of an alcoholic beverage; and~~

16 ~~(b) in the case of a corporate applicant:~~

17 ~~(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection~~
18 ~~(4)(a)(iii);~~

19 ~~(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual~~
20 ~~listed in subsection (4)(a) of this section;~~

21 ~~(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is~~
22 ~~owned or controlled by a manufacturer of an alcoholic beverage; and~~

23 ~~(iv) the corporation is authorized to do business in Montana; and~~

24 ~~(c) in the case of any other business entity as applicant:~~

25 ~~(i) if the applicant consists of more than one individual, all must meet the requirements of~~
26 ~~subsection (4)(a); and~~

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29 ~~(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)~~
30 ~~apply separately to each class of stock.~~

1 ~~(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant~~
 2 ~~to 16-4-302.~~

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 4 ~~on premise consumption as provided in 16-4-101(2) does not constitute interest in a manufacturer that is~~
 5 ~~prohibited in subsection (2)(a)(iii)."~~

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12 (b) directly or indirectly or upon any pretense or upon any device, sell or offer to sell an alcoholic
 13 beverage; or;

14 (c) in consideration of the purchase or transfer of any property or for any other consideration or
 15 at the time of the transfer of any property, give to any other person any an alcoholic beverage.

16 (2) ~~No~~ A person shall may not have or keep any alcoholic beverage ~~which that~~ has not been
 17 purchased within the state of Montana.

18 ~~(3) Nothing in this code shall~~ This section does not prohibit;

19 (a) any a person entering this state from any other another state or from any foreign country from
 20 having in his the person's possession an amount not to exceed 3 wine gallons of alcoholic beverage which
 21 beverage shall have been that was purchased in another state or foreign country, but no person claiming
 22 to have so entered the state shall at any time have in his possession more than 3 wine gallons of alcoholic
 23 beverage which shall not have been purchased within the state of Montana;

24 (b) possession of beer produced for personal or family use and not intended for sale that meets the
 25 exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer,
 26 for personal or family use, on premises other than those of the person brewing the beer;

27 ~~(c) This subsection shall not apply to the department or to the keeping or having of possession of~~
 28 alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the
 29 manufacture of such those alcoholic beverages; or

30 ~~(d) to the keeping or having of any possession of~~ proprietary or patent medicines or of any

1 extracts, essences, tinctures, or preparations ~~where such having and keeping~~ if the possession is authorized
2 by this code; ~~or~~

3 ~~(3)(e) Nothing contained in this section shall apply to the possession by a sheriff or his~~ bailiff of
4 alcoholic beverages seized under execution or other judicial or extrajudicial process or ~~to~~ sales under
5 executions or other judicial or extrajudicial process to the department or a licensee.

6 (4) Except as provided in this code, ~~no~~ a person or the person's agents or employees shall, within
7 ~~the state, by himself, his clerk, servant, or agent~~ may not:

8 (a) attempt to purchase any alcoholic beverage;

9 (b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or

10 (c) in consideration of the sale or transfer of any property or for any other consideration or at the
11 time of the transfer of any property, take or accept from any other person any alcoholic beverage."

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14 ~~integral part of Title 16, chapter 3, part 2, and the provisions of Title 16, chapter 3, part 2, apply to~~
15 ~~[section 1].~~

16

-END-