

Proposed 2011 Session Legislation

Agency Name & No: DEPARTMENT OF REVENUE - 5801

Priority Number: 3 Filename: \5801\03-003

Short Title: Revise liquor laws to provide non-profits with ability to raffle/auction wine and beer for charity; eliminate confusion in the liquor application creditor protest process and adopt a good neighbor policy for neighboring states; and increase the consistency, clarity and understandability of laws regarding the serving of underage and intoxicated persons.

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1. Purpose:

This proposal is intended to update liquor laws to recognize reasonable practices commonly engaged in by non-profit organizations; eliminate confusion for creditors and to allow residents in an adjoining county in another state to protest liquor license applications by adjusting the liquor application protest statute (16-4-207, MCA); and simplify and improve the consistency, clarity and understandability of certain laws regarding the serving of liquor to underage and intoxicated persons.

2. Background:

1. Montana law does not currently authorize non-profits to raffle or auction alcoholic beverages, but it is common non-profit fund-raising practice. This proposal would authorize and define the terms and conditions for non-profits to conduct such raffles or auctions. 2. This proposal would remedy two problems in the current liquor license protest laws. Montana law (16-4-207, MCA) allows creditors to protest an application; however, the statute is meaningless because the department cannot adjudicate the merits of the protestor's claim. This proposal would eliminate this provision that wastes the time and energy of the public and the department. In addition, the law allows only Montana residents in the county or adjoining county to protest a liquor application. In some instances the adjoining county is in another state. Residents in adjoining counties have asked to protest in the past but due to the fact they are not in a Montana county the law does not allow us to include their testimony in our determination. The proposal would allow citizens in other states to participate in Montana protest proceedings if the adjoining state reciprocates with respect to Montana citizens participating in their comparable protest proceedings. 3. The proposal will improve liquor laws by eliminating confusing, ambiguous or conflicting laws related to the serving of underage or intoxicated persons. (a) Montana law is ambiguous as to what a seller/server of alcoholic beverages is to do if they have a question about the age of a purchaser. This proposal would clarify that the seller/server would request valid identification of purchasers in these cases just as is specified under Montana law for sellers of tobacco products. (b) The proposal would amend 16-6-305, MCA to end the server confusion and potential conflict that can arise when a parent or guardian supplies an alcoholic beverage to an underage person in a licensed establishment. The proposal would prohibit an underage person from consuming an alcoholic beverage in a license establishment under any circumstances. (c) The proposal would remove the word "knowingly" from 16-6-305, MCA, in the prohibition against parents, guardians or other persons supplying alcoholic beverages to underage persons. This amendment removes an ambiguity in the legal standard that applies to adults who supply liquor to underaged persons and strengthens the prohibition on such supply. This change responds to liquor licensee complaints that unlicensed adults are a primary source of supply for underaged persons--not licensees. (d) Amend the level of "intoxicating quantity" that adults cannot provide to underage persons in 16-3-305, MCA, (currently a BAC of .05) to match the criminal code 61-8-410, MCA of .02 for underage driving under the influence.

3. Fiscal Impact by Fund Type: This impact should be as specific as possible.

No impact.

4. Summary Checklist [Check & complete all that apply]--

Summary Checklist with checkboxes and input fields for: Housekeeping Only, Federal Requirement, Audit Recommendation, Major Legislation, Anticipated to be Controversial Legislation, Bill Draft has been included in Legislation Submittal, Supports Submitted EPP Item Number, Local Government Fiscal Impact, FTE changes, Revenue changes, Previous Legislative Sessions, and other relevant items.