

APPENDIX III

LIQUOR VIOLATION CODES

Prepared by the Montana Department of Revenue, Liquor Control Division, Liquor Education

16-3-301(1) MCA: Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age. (1) It is unlawful for a licensed retailer to purchase or acquire beer or wine from anyone except a brewery, winery, or wholesaler licensed under the provisions of this code. *(This means it is illegal for an establishment to allow patrons to bring in their own alcohol for consumption on their premises.)*

16-3-301(4) MCA: Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age. (4) It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

- (a) any person under 21 years of age; or
- (b) any person actually, apparently, or obviously intoxicated.

16-3-301(6) MCA: Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age. (6) All licensees must display in a prominent place in their premises a placard, issued by the department, stating fully the consequences for violations of the provisions of this code by persons under 21 years of age. *(This is the sign that states what the penalties are for an underage person attempting to purchase. The old version of the sign is white, the new is light blue)*

16-3-304 MCA: Closing hours for licensed retail establishments. Except as provided in 16-3-305, all licensed establishments wherein alcoholic beverages are sold, offered for sale, or given away at retail shall be closed each day between 2 a.m. and 8 a.m.; provided, however, that when any municipal incorporation has by ordinance further restricted the hours of sale of alcoholic beverages, then the sale of alcoholic beverages is prohibited within the limits of any such city or town during the time such sale is prohibited by this code and in addition thereto during the hours that it is prohibited by such ordinance. During such hours all persons except the alcoholic beverage licensee and employees of such licensed establishment shall be excluded from the licensed premises. *(This means no consumption of alcohol allowed after 2 a.m. Even by employees who are inside cleaning up.)*

16-3-309 MCA: Sales prohibited by ordinance. (1) An incorporated city may enact an ordinance defining certain areas in its incorporated limits where alcoholic beverages may or may not be sold. (2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where alcoholic beverages may or may not be sold. (3) In enacting such an ordinance or resolution, the county or city may provide that the provisions of 16-3-306(1) do not apply within the jurisdictional area of the ordinance or resolution. If a county or city has supplanted the provisions of 16-3-306(1), upon request of the department the governing body of the county or city must certify to the department whether or not the person or individual identified in the request may lawfully sell alcoholic beverages under the terms of the ordinance or resolution. The department is bound by the determination set forth in the certification. (4) No county or incorporated city may by ordinance restrict the number of licenses that the department may issue.

16-3-321 MCA: Keg identification tag. (1) A licensee may not sell a keg of beer unless an identification tag is attached to the keg by the licensee. (2) An identification tag must consist of paper, plastic, metal, or durable material that is not easily damaged or destroyed. An identification tag may be attached to a keg at the time of sale with a nylon tie or cording, wire tie or other metal attachment device, or other durable means of tying or attaching the tag to the keg. (3) The identification information contained on the tag must include:

- (a) the licensee's name, address, and telephone number; and

(b) a prominently visible warning that intentional removal or defacement of the tag is a criminal offense.

(4) A retailer that accepts the return of a keg that does not have an identification tag attached shall obtain the information required in 16-3-322 on the original purchaser, to the extent possible, and obtain the same information on the person returning the keg. This information must be kept on file with the retailer for not less than 45 days from the date of return. (5) A person, other than the licensee, the wholesaler of malt beverages, or a law enforcement officer, may not intentionally remove identification placed on a keg in compliance with this section.

16-3-322 MCA: Recordkeeping. (1) A licensee, at the time of the sale of a keg, shall record the following:

- (a) the purchaser's name, address, and date of birth and the number of the purchaser's driver's license, state-issued or military identification card, tribal identification card, or valid United States or foreign passport;
- (b) the date of purchase;
- (c) the name of the clerk making the sale; and
- (d) the purchaser's signature and date of purchase.

(2) The licensee shall maintain the record for not less than 45 days after the date of the sale. (3) A licensee who maintains the records required by this section shall make the records available during regular business hours for inspection by law enforcement pursuant to 16-3-323.

16-3-323 MCA: Enforcement. (1) A law enforcement officer may not request information on file about the original purchaser of a keg unless in connection with a violation of 16-6-305, 45-5-623, or 45-5-624(4). The officer shall return any recovered keg to the licensee and verify the information on file about the original purchaser.

16-4-111(4) MCA: Catering endorsement for beer and wine licensees. (4) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises that the catered event is to be held. A fee of **\$35** must accompany the notice.

16-6-103 MCA: Examination of retailer's premises and carriers' cars and aircraft. The department of justice or its representative or a peace officer may at any time examine the premises of a retail licensee to determine whether the law of Montana and the rules of the department or the department of justice are being complied with and also may inspect cars or aircraft of any common carrier system licensed under this code.

16-6-304 MCA: Providing alcoholic beverage to intoxicated person prohibited. (1) No store manager, retail licensee, or any employee of a store manager or retail licensee may sell any alcoholic beverage or permit any alcoholic beverage to be sold to any person apparently under the influence of an alcoholic beverage. (2) No person may give an alcoholic beverage to a person apparently under the influence of alcohol.

16-6-306 MCA: Bottle clubs prohibited. The operation of alcoholic beverage bottle clubs is hereby prohibited by any person, persons, partnership, firm, corporation, or association. A bottle club is defined as any person, persons, partnership, firm, corporation, or association maintaining premises not licensed for the sale of alcoholic beverages, for a fee or other consideration, including the sale of food, mixes, ice, or any other fluids for alcoholic beverages, or otherwise furnishing premises for such purposes and from which they would derive revenue. *(This means an establishment cannot allow patrons to bring in their own wine and have the establishment open it for them [corkage fee] for consumption on the premises.)*

16-6-312 MCA: Premises where alcoholic beverages illegally sold public nuisance. Any room, house, building, boat, vehicle, structure, or place where alcoholic beverages are knowingly manufactured, sold, or bartered in violation of this code or 45-8-111 and all property knowingly kept and used in maintaining the same

is hereby declared to be a public nuisance, and any person who maintains such a nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100 or more than \$500 and be imprisoned not less than 30 days or more than 6 months.

16-11-304 MCA: Signs. A retail seller of tobacco products shall conspicuously display, at each place on the premises at which tobacco products are displayed and sold, a sign that is to be provided without charge by the department of revenue that states: "Montana law prohibits the sale of tobacco products to persons under 18 years of age." (*This sign is the dark blue one that says you it is illegal to sell tobacco products to anyone under 18.*)

39-2-306 MCA: Employment of persons under eighteen as bartenders prohibited. (1) No person under 18 years of age shall be employed as a bartender, waiter, or waitress whose duty is to serve customers purchasing liquors, beer, or wines in any establishment which sells liquors, beer, or wines at retail. (2) Any retail vendor of liquors, beer, or wines who employs any such person under the age of 18 years is guilty of a misdemeanor.

ARM 42.13.101: Compliance with laws and rules. (1) All licensees, their agents, and employees must conduct the licensed premises in compliance with the rules of other state and local agencies and abide by all:

- (a) provisions of the laws of Montana and the United States related to alcoholic beverages;
- (b) county and city or town ordinances related to alcoholic beverages;
- (c) Indian liquor laws applicable within the areas of Indian country, as defined by 18 USC 1151, provided a tribe having jurisdiction over such area of Indian country adopted an ordinance, certified by the Secretary of the Interior, and published in the Federal Register; and
- (d) rules of the department relating to alcoholic beverages.

ARM 42.13.103: Department examinations. (1) The department or its duly authorized representative has the right at any time to make an examination of any premises licensed for the sale of alcoholic beverages and to check the books, records, and stock-in-trade, and to make an inventory of the latter. The department or its authorized representative may immediately seize and remove any alcoholic beverage kept in violation of law. (2) Any authorized representative designated in (3) shall have immediate access to all parts of the licensed premises. Doors of licensed premises shall not be locked while persons other than the licensee or the licensee's employees are within or upon the licensed premises. (3) The department designates as its authorized representative, for the purpose of carrying out 16-6-103, MCA, any member of a county sheriff's department or the police force of a city or town, provided the police force is organized pursuant to Title 7, chapter 32, part 41, MCA (metropolitan police law).

ARM 42.13.110: Closing hours due to change to or from daylight savings time. (1) Hours of operation change twice yearly due to daylight savings time. The change in time will occur at 2:00 a.m., therefore: (a) in the fall the establishment must close at 2:00 a.m. and then set the clock back to 1:00 a.m.; and (b) in the spring the establishment must close at 2:00 a.m. and then set the clock forward to 3:00 a.m.