

## HOUSE BILL NO. HB0155

Alcohol administration revisions.

Sponsored by: Representative(s) Clem and Lindholm

A BILL

for

1 AN ACT relating to alcohol; providing for licenses for  
 2 wholesalers of alcoholic liquors and wine; increasing the  
 3 tax on alcoholic beverages; revising distribution of those  
 4 taxes; repealing provisions authorizing the Wyoming liquor  
 5 division to purchase and sell alcoholic liquors; conforming  
 6 related provisions; requiring the liquor division to sell  
 7 its remaining stock of alcoholic liquors; providing  
 8 rulemaking authority; and providing for effective dates.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12       **Section 1.** W.S. 12-1-101(a)(xvii), 12-1-102(b),  
 13 12-2-201(a)(intro), (i), (ii), (b) and (e), 12-2-203(b) and  
 14 (g), 12-2-204(b) and (d)(i), 12-2-302(a), 12-2-305,  
 15 12-2-306, 12-3-101(a) and (e), 12-3-102(a), 12-4-103(c),

1 12-4-407(a), 12-4-412(g), 12-6-101(a), 12-7-103 and  
2 12-7-201(e) are amended to read:

3

4 **12-1-101. Definitions.**

5

6 (a) As used in this title:

7

8 (xvii) "Wholesaler" means any person ~~except the~~  
9 ~~division,~~ who sells any alcoholic or malt beverage to a  
10 retailer for resale;

11

12 **12-1-102. Application of provisions.**

13

14 (b) Nothing in this title prohibits a liquor supplier  
15 operating under a governmental permit or tax license from  
16 selling his product to ~~the division~~ an appropriate  
17 wholesale licensee or delivering products at points not  
18 within the state of Wyoming after licenses are secured as  
19 required by the division.

20

21 **12-2-201. Wholesale licenses; fees.**

22

1           (a) The division may grant wholesale licenses for the  
2 sale of alcoholic liquor, wine and malt beverages as  
3 provided in this section. Except as otherwise provided in  
4 paragraph (ii) of this subsection a wholesale license  
5 authorizing the sale of malt beverages only, may be granted  
6 by the division to microbreweries and malt beverage  
7 wholesalers resident within this state. Wholesale licensees  
8 have the exclusive right to sell alcoholic liquor, wine and  
9 malt beverages at wholesale. Any qualified person desiring  
10 ~~a~~ an alcoholic liquor wholesale license, wine wholesale  
11 license or malt beverage wholesale license shall apply to  
12 the division on forms to be provided and pay a license fee  
13 of two hundred fifty dollars (\$250.00) for each license  
14 annually in advance. A wholesale license issued under this  
15 subsection shall be subject to the following:

16

17           (i) Except as provided in paragraph (ii) of this  
18 section, no manufacturer, winery, brewery or ~~malt beverage~~  
19 importer may have any legal ownership interest, in whole or  
20 in part, in the license, business, assets or corporate  
21 stock of a ~~licensee~~ wholesaler under this subsection;

22

1           (ii) The division may issue a temporary malt  
2 beverage wholesale license under this subsection to a  
3 brewery or malt beverage importer if a current licensee who  
4 has been granted distribution rights for a brand in a  
5 designated sales territory is unable to service the  
6 territory as a result of the loss of his license,  
7 bankruptcy or insolvency, and the loss of license,  
8 bankruptcy or insolvency is not the result of action by the  
9 brewery or malt beverage importer that is prohibited under  
10 the franchise agreement. A temporary license under this  
11 paragraph may be issued for a period not to exceed one (1)  
12 year and shall be limited to the sale of products in the  
13 designated territory;

14

15           (b) Each applicant for a malt beverage wholesale  
16 license shall submit to the division a statement under oath  
17 designating clearly the geographical territory within which  
18 the applicant will sell and deliver malt beverages to  
19 qualified retail liquor and malt beverage licensees or  
20 permittees only. The territory is to be that designated by  
21 the brewer or brewer's authorized agent whose product the  
22 applicant sells. The application shall state that malt  
23 beverages sold by the applicant may be purchased by all

1 retail liquor licensees or malt beverage permittees, and  
2 that the applicant will maintain a warehouse and delivery  
3 facilities within the territory designated. This subsection  
4 does not apply to a licensed malt beverage wholesaler when  
5 there has been no territorial designation of a brand by a  
6 brewer or the brewer's authorized agent to another licensed  
7 wholesaler. The division may authorize a licensed malt  
8 beverage wholesaler to annually purchase not more than one  
9 hundred fifteen (115) gallons of any unassigned brand. A  
10 retail liquor licensee or malt beverage permittee shall  
11 purchase all malt beverages for retail sale only from a  
12 Wyoming wholesale malt beverage licensee.

13

14 (e) All Wyoming breweries and all ~~malt beverage~~  
15 wholesalers shall be under the direct supervision of the  
16 division and subject to all the provisions of this title  
17 and the rules and regulations of the department. The  
18 department may adopt separate rules for alcoholic liquor  
19 wholesale licenses, wine wholesale licenses and malt  
20 beverage wholesaler licenses.

21

22 **12-2-203. Manufacturing and rectifying; importing and**  
23 **industry representatives; licensing; fees.**

1

2 (b) The Wyoming liquor division shall grant a class A  
3 industry representative license for alcoholic liquor  
4 suppliers to a qualified individual domiciled within this  
5 state who submits an application to the division on forms  
6 provided by the division accompanied by an annual license  
7 fee of not to exceed seven hundred fifty dollars (\$750.00).  
8 A class A industry representative shall have a written  
9 statement from any vendor whose products the applicant  
10 proposes to represent. ~~The class A industry representative~~  
11 ~~shall be published in the division's price catalog with the~~  
12 ~~products from any vendor represented by him and shall be~~  
13 ~~authorized to request that the division list or delist~~  
14 ~~products from the vendor represented by him.~~

15

16 (g) The local licensing authority may issue to the  
17 holder of a manufacturer's license under subsection (a) of  
18 this section who is a federally licensed distiller or  
19 rectifier, a satellite manufacturer's permit which allows  
20 the permittee to sell its manufactured product at not more  
21 than one (1) satellite location within Wyoming separate  
22 from its manufacturing site under the original permit. All  
23 products sold at a manufacturer's satellite location shall

1 be obtained through ~~the division~~ a licensed wholesaler. The  
2 satellite manufacturer's permit may be issued on  
3 application to the appropriate licensing authority. The  
4 local licensing authority may require a public hearing and  
5 the payment of an additional permit fee not to exceed one  
6 hundred dollars (\$100.00). The satellite manufacturer's  
7 permit shall be subject to the terms and conditions of W.S.  
8 12-4-106, the schedule of operating hours provided in W.S.  
9 12-5-101 and the dispensing room provisions pursuant to  
10 W.S. 12-5-201.

11

12 **12-2-204. Out-of-state shipment of manufactured wine;**  
13 **license; fees; restrictions; conditions.**

14

15 (b) Notwithstanding any law, rule or regulation to  
16 the contrary, any person currently licensed in its state of  
17 domicile as an alcoholic liquor or malt beverage  
18 manufacturer, importer, wholesaler or retailer who obtains  
19 an out-of-state shipper's license, as provided in this  
20 section, may ship manufactured wine to any Wyoming retail  
21 establishment which holds a liquor license in this state or  
22 any household in this state. ~~any manufactured wine which is~~

1 ~~not listed with the liquor division as part of its~~  
2 ~~inventory and distribution operation.~~

3  
4 (d) Any out-of-state shippers licensed pursuant to  
5 this section shall:

6  
7 (i) Not ship more than a total of thirty-six  
8 (36) liters of manufactured wine to any one (1) household  
9 in this state during any twelve (12) month period; ~~. In the~~  
10 ~~event any out-of-state shipper ships more than ninety (90)~~  
11 ~~liters of any particular manufactured wine to any~~  
12 ~~combination of households or licensed retailers in this~~  
13 ~~state, the out-of-state shipper shall offer to sell the~~  
14 ~~manufactured wine to the liquor division at wholesale~~  
15 ~~prices;~~

16  
17 **12-2-302. Collection of excise taxes; disposition of**  
18 **revenue and fees.**

19  
20 (a) The division shall collect all excise taxes  
21 provided by this title relating to alcoholic and malt  
22 beverages for deposit ~~into the general fund.~~ in equal  
23 amounts to the following accounts:



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(i) The court supervised treatment program account established under W.S. 7-13-1605(a);

(ii) The tobacco settlement trust fund income account established under W.S. 9-4-1203(b);

(iii) The Wyoming children's trust fund established under W.S. 14-8-106; and

(iv) The juvenile services block grant account established under W.S. 14-9-104.

**12-2-305. Sales to violators prohibited; hearing and review.**

Whenever any licensee is convicted of willfully violating any provision of this title, upon satisfactory proof of the conviction, the division may, after notice and hearing, ~~refuse to sell alcoholic beverages to the licensee~~ suspend the license of the licensee. The administrative proceeding shall be conducted as a contested case before a hearing examiner of the office of administrative hearings, who

1 shall recommend a decision to the division. Judicial  
2 review, if any, shall be from the decision of the division  
3 and in accordance with the provisions of the Wyoming  
4 Administrative Procedure Act.

5

6 **12-2-306. Sales to licensees failing to pay sales tax**  
7 **prohibited; hearing and review.**

8

9 Upon certification by the department of revenue that any  
10 licensee is sixty (60) or more days delinquent in paying  
11 sales taxes, the division shall ~~not sell alcoholic~~  
12 ~~beverages to~~ suspend the license of the licensee or its  
13 operator until the department of revenue certifies that the  
14 licensee has paid all sales taxes owed. Upon receipt of  
15 certification, the division shall notify the issuing  
16 licensing authority of the delinquency. The licensee shall  
17 be allowed a hearing before the state board of equalization  
18 as provided by the Wyoming Administrative Procedure Act if  
19 the licensee feels aggrieved by any action taken under this  
20 section.

21

22 **12-3-101. Excise tax to be paid; limitation on liquor**  
23 **or malt beverage importation; penalties.**

1

2 (a) An excise tax is assessed and shall be collected  
3 by the division equal to ~~three-fourths of one cent (\$.0075)~~  
4 five and one-fourth cents (\$.0525) per one hundred (100)  
5 milliliters (3.4 ounces) or fraction thereof on wine, ~~two~~  
6 ~~and one-half cents (\$.025)~~ seventeen and one-half cents  
7 (\$.175) per one hundred (100) milliliters (3.4 ounces) or  
8 fraction thereof on spirituous liquors and ~~one-half-cent~~  
9 ~~(\$.005)~~ three and one-half cents (\$.035) per liter (33.8  
10 ounces) or fraction thereof on malt beverages. The  
11 appropriate excise tax shall be collected on all alcoholic  
12 or malt beverages sold, offered for sale or use in this  
13 state.

14

15 (e) Any person importing or transporting alcoholic  
16 liquor in violation of subsection (d) of this section is  
17 guilty of a misdemeanor. All alcoholic liquor or malt  
18 beverages illegally imported or transported shall be  
19 forfeited and ~~delivered to the division for disposition as~~  
20 ~~inventory stock~~ destroyed.

21

22 **12-3-102. Confiscation authorized; disposition; when**  
23 **seizure permitted.**

1

2 (a) When an authorized inspector discovers alcoholic  
3 liquors or malt beverages upon which excise taxes have not  
4 been paid in the possession of a licensee, he shall take  
5 possession of and hold the alcoholic liquors or malt  
6 beverages as evidence against the offender. If the offender  
7 is convicted of a violation of W.S. 12-3-101, the court  
8 shall order that the untaxed liquor or beverage be  
9 ~~delivered to the division, if merchantable, where it will~~  
10 ~~be added to its stock and sold in the usual course of~~  
11 ~~business. If the liquors or beverages are determined to be~~  
12 ~~nonmerchantable, the court shall order their destruction~~  
13 destroyed. This subsection shall not apply to homemade  
14 beverages that are provided in accordance with an event  
15 under W.S. 12-10-102, provided that the beverages shall be  
16 removed from the premises within twenty-four (24) hours  
17 following the end of the event.

18

19 **12-4-103. Restrictions upon license or permit**  
20 **applicants and holders; license limitation per person.**

21

22 (c) Except as provided in subsection (d) of this  
23 section, a license or permit authorized by this title shall

1 not be renewed if the licensee or permittee did not, during  
2 the previous one (1) year term of the license or permit,  
3 purchase at least five hundred dollars (\$500.00) of  
4 alcoholic or malt beverages or a combination thereof from  
5 ~~the division or~~ any authorized ~~malt beverage~~ wholesaler. A  
6 retail liquor license shall not be renewed if the licensee  
7 did not, during the previous one (1) year term of the  
8 license, purchase at least two thousand dollars (\$2,000.00)  
9 of alcoholic or malt beverages or a combination thereof  
10 from ~~the division or~~ any authorized ~~malt beverage~~  
11 wholesaler.

12

13 **12-4-407. Restaurant liquor license; authorized.**

14

15 (a) Restaurants as defined by W.S. 12-1-101(a)(xiv)  
16 may be licensed by the appropriate licensing authority in  
17 counties, cities and towns under a restaurant liquor  
18 license. In addition to the application requirements  
19 required by this title, the license applicant shall submit  
20 a valid food service permit upon application. When the  
21 total dollar amount of wholesale purchases ~~from the~~  
22 ~~division of liquor~~ in a county is greater than fifty (50)  
23 times the county population, then population formulas have

1 no application to issuance of restaurant liquor licenses  
2 within the county.

3

4 **12-4-412. Microbrewery and winery permits;**  
5 **authorized; conditions; dual permits and licenses;**  
6 **satellite winery permits; direct shipment of wine; fees.**

7

8 (g) Notwithstanding paragraph (b)(v) of this section  
9 and W.S. 12-5-201, any person holding a winery permit as  
10 provided by this section, may sell and ship its  
11 manufactured wine ~~which is not listed with the liquor~~  
12 ~~division as part of its inventory and distribution~~  
13 ~~operation~~ to any Wyoming retail establishment which holds a  
14 liquor license in this state.

15

16 **12-6-101. Sale or possession prohibited; when**  
17 **possession unlawful; public drunkenness; falsification of**  
18 **identification; penalty; prima facie identification as**  
19 **defense.**

20

21 (a) Any person who sells, furnishes, gives or causes  
22 to be sold, furnished or given away any alcoholic liquor or  
23 malt beverage to any person under the age of twenty-one

1 (21) years, who is not his legal ward, medical patient or  
2 member of his own immediate family, is guilty of a  
3 misdemeanor. This subsection does not apply to sales by  
4 ~~the division or~~ a wholesaler to a licensee under this  
5 title.

6

7 **12-7-103. Suspension of license by licensing**  
8 **authorities for failure to pay sales tax.**

9

10 A local licensing authority may suspend any license issued  
11 under this title if the licensee fails to pay sales taxes.  
12 ~~and the division has ceased sales of alcoholic liquor to~~  
13 ~~the licensee pursuant to W.S. 12-2-306.~~ The licensee may  
14 appeal license suspension to the district court in the  
15 manner specified under W.S. 12-4-104(f) and the appeal  
16 proceedings shall be in accordance with the Wyoming Rules  
17 of Appellate Procedure. The suspension shall remain in  
18 effect pending a decision by the appellate court.

19

20 **12-7-201. Civil action; administrative and judicial**  
21 **proceedings; disposition of liquors.**

22

1           (e) Upon the revocation of a liquor license or  
2 permit, all alcoholic liquors in the possession of the  
3 license holder ~~and which are in merchantable condition~~  
4 ~~shall be delivered to the division which shall reimburse~~  
5 ~~the license holder for the value thereof at its then~~  
6 ~~regular wholesale prices. All malt beverages and~~  
7 ~~nonmerchantable alcoholic liquors shall be disposed of at~~  
8 ~~the direction of the division~~ destroyed.

9  
10           **Section 2.** W.S. 12-2-301(a), 12-2-303,  
11 12-4-412(h) (ii), 12-5-402(c) and 12-5-405 are repealed.

12  
13           **Section 3.** The Wyoming liquor division shall sell its  
14 full stock of alcoholic liquors not later than December 31,  
15 2017 to qualified licensees within the state. The  
16 department of revenue shall adopt rules and regulations  
17 necessary to begin accepting applications for alcoholic  
18 liquor wholesale licenses and wine wholesale licenses by  
19 July 1, 2017 and the division may also sell its stock to  
20 any appropriate licensed wholesaler in the state after July  
21 1, 2017. To the extent practical, sales shall be made at  
22 prices sufficient to return the cost of merchandise and all  
23 expenses of operation together with a profit, not to exceed



1 seventeen and six-tenths percent (17.6%) above the cost of  
2 the merchandise. The division may make sales at prices less  
3 than the amount specified in this section if necessary to  
4 sell the full stock by the date specified in this section.  
5 As used in this section, "licensee" means as defined in  
6 W.S. 12-1-101(a)(viii).

7

8 **Section 4.**

9

10 (a) Except as provided in subsection (b) of this  
11 section, this act is effective July 1, 2017.

12

13 (b) Section 3 of this act is effective immediately  
14 upon completion of all acts necessary for a bill to become  
15 law as provided by Article 4, Section 8 of the Wyoming  
16 Constitution.

17

18 (END)