

ORDINANCE NO. **02-5206**

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING SECTIONS TO BE NUMBERED 18-901 THROUGH 18-906; PROVIDING A METHOD FOR LABELING AND TRACKING ALCOHOLIC BEVERAGES SOLD BY THE KEG AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, the Mayor and City Council of Billings have determined that there is unlawful consumption of alcoholic beverages by persons under the age of twenty-one; and

WHEREAS, that as reported by law enforcement and others, consumption is in part a result of beer being supplied through the use of kegs; and

WHEREAS, the Mayor and City Council deem it appropriate to track the purchase of kegs, so as to identify those persons who may be selling or purchasing kegs of beer and allowing the same to be consumed by persons under the lawful age; and

WHEREAS, the Mayor and City Council desire that actions be taken so as to provide a mechanism whereby Law Enforcement Officials may track the purchase of kegs, and to penalize offenders who have violated this ordinance.

NOW, WHEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That the Billings, Montana City Code be amended by adding sections to be numbered 18-901 through 18-905, to read as follows:

“Sec. 18-901. Keg stamp and purchaser identification required.

(a) Any retail liquor establishment selling alcoholic beverages by the keg within the City of Billings shall be required to affix to the keg at the time of sale a permanent identification stamp or mark approved by the Billings Police Department.

(b) Any retail liquor establishment selling alcoholic beverages by the keg within the City of Billings shall be required at the time of sale to require a valid photographic identification from the purchaser and completion of a written identification form as approved by the Billings Police Department with information containing the purchaser's name, address, date of birth, driver's license number, and date of sale. These records shall be maintained for six (6) months and shall be open to inspection by the Billings Police Department during normal business hours.

Sec. 18-902. Failure to affix stamp or obtain identification.

(a) Any retail liquor establishment or employee or agent of such who fails to affix an approved identifying stamp or mark required in Section 18-901(a) or fails to complete and maintain the forms required in Section 18-901(b) shall be guilty of a misdemeanor.

(b) Any owner or operator of any retail liquor establishment who, through act of omission or commission, fails to ensure that the owner's employees properly comply with Section 18-901 shall be guilty of a misdemeanor.

Sec. 18-903. Unlawful removal of stamp.

(a) It shall be unlawful for any person who has purchased alcoholic beverages by the keg within the City of Billings to remove or alter the identification stamp or mark required in Section 18-901(a). However, it shall not be a violation of this section if the person removing the identification stamp or mark is an employee of an owner or operator of a retail or wholesale alcoholic beverages establishment, who removes the stamp or mark after the return of the keg to the retail establishment and after any deposit has been returned to the consumer, with written permission of the Billings Police Department.

(b) It shall be unlawful for any purchaser of a keg of alcoholic beverage to allow anyone to remove or alter the permanent identification stamp or mark from the keg prior to its return to the retail liquor establishment that sold the keg.

Sec. 18-904. Unlawful to allow consumption by minors.

It shall be unlawful for any person to purchase a keg containing an alcoholic beverage and to thereafter allow consumption of the alcoholic beverage by minors, unless the consumption is authorized and allowed pursuant to other laws of the State of Montana.

Sec. 18-905. Inspection and possession of kegs.

(a) Any owner or operator of any retail liquor establishment, or any employee thereof, who receives a keg being returned by any consumer of

the alcoholic beverage, shall inspect the returned keg. If the identification stamp or mark has been removed, altered or tampered with, the owner or operator shall immediately notify the Billings Police Department of that fact. It shall be a misdemeanor criminal offense for any owner, operator, or employee to fail to notify the police department as required herein.

(b) It shall be unlawful for any person to be in possession of a keg of alcoholic beverage if that keg was purchased within the City of Billings and if that keg does not contain the appropriate permanent identification stamp or mark as required by Section 18-901(a).

Sec. 18-906. Penalty for violations.

A person convicted of a violation of any of the provisions of Sections 18-901 through 18-905 shall be fined not to exceed \$500.00 or be imprisoned for any term not to exceed 6 months, or both."

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 28th day of May, 2002.

PASSED, ADOPTED and APPROVED on second reading this 10th day of June, 2002.

CITY OF BILLINGS

ORD 02-5206

By _____
Charles F. Tooley Mayor

ATTEST:

By _____
Marita Herold, CMC City Clerk