

1 *ACQUISE* BILL NO. *438*
 2 INTRODUCED BY *Rep. Sherry*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESTAURANT
 5 BEER AND WINE LICENSE; EXEMPTING THE LICENSE FROM QUOTA
 6 LIMITATIONS; PROVIDING AN ANNUAL FEE; AND AMENDING SECTION
 7 16-4-501, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. **Section 1.** Restaurant beer and wine
 11 license. (1) Upon application and qualification, the
 12 department shall issue a beer and wine license, to be known
 13 as a restaurant beer and wine license, to allow the sale of
 14 beer and wine for consumption on the premises of a
 15 restaurant that derives at least 60% of its gross income
 16 from the sale of food to be consumed on the premises. The
 17 license must allow beer and wine to be sold and consumed on
 18 the premises between 11 a.m. and 11 p.m.

19 (2) A license issued under this section is not subject
 20 to the quota limitations of 16-4-105.

21 (3) Except as specifically provided, a license issued
 22 under this section is subject to all statutes and rules
 23 governing beer and wine licenses.

24 **Section 2.** Section 16-4-501, MCA, is amended to read:
 25 "16-4-501. License and permit fees. (1) Each beer

1 licensee licensed to sell either beer or table wine only, or
 2 both beer and table wine, under the provisions of this code,
 3 shall pay an annual license fee as follows:

4 (a) each brewer and each beer importer, wherever
 5 located, whose product is sold or offered for sale within
 6 the state, \$500; for each storage depot, \$400;

7 (b) each beer wholesaler, \$400; each table wine
 8 distributor, \$400; each subwarehouse, \$400;

9 (c) each beer retailer, \$200;

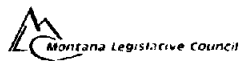
10 (d) for a license to sell beer at retail for
 11 off-premises consumption only, the same as a retail beer
 12 license; for a license to sell table wine at retail for
 13 off-premises consumption only, either alone or in
 14 conjunction with beer, \$200;

15 (e) any unit of a nationally chartered veterans'
 16 organization, \$50.

17 (2) The permit fee under 16-4-301(1) is computed at the
 18 rate of \$15 a day for each day beer and table wine are sold
 19 at those events lasting 2 or more days but in no case shall
 20 the fee be less than \$30.

21 (3) The permit fee under 16-4-301(2) is \$10 for the
 22 sale of beer and table wine only or \$20 for the sale of all
 23 alcoholic beverages.

24 (4) Passenger carrier licenses shall be issued upon
 25 payment by the applicant of an annual license fee in the sum



1 of \$300.

2 (5) The annual license fee for a license to sell wine
3 on the premises, when issued as an amendment to a beer-only
4 license pursuant to 16-4-105, is \$200.

5 (6) The annual fee for resort retail all-beverages
6 licenses within a given resort area shall be \$2,000 for each
7 license.

8 (7) Each licensee licensed under the quotas of 16-4-201
9 shall pay an annual license fee as follows:

10 (a) except as provided in this section, for each
11 license outside of incorporated cities and incorporated
12 towns or in incorporated cities and incorporated towns with
13 a population of less than 2,000, \$250 for a unit of a
14 nationally chartered veterans' organization and \$400 for all
15 other licensees;

16 (b) except as provided in this section, for each
17 license in incorporated cities with a population of more
18 than 2,000 and less than 5,000 or within a distance of 5
19 miles thereof, measured in a straight line from the nearest
20 entrance of the premises to be licensed to the nearest
21 boundary of the city, \$350 for a unit of a nationally
22 chartered veterans' organization and \$500 for all other
23 licensees;

24 (c) except as provided in this section, for each
25 license in incorporated cities with a population of more

1 than 5,000 and less than 10,000 or within a distance of 5
2 miles thereof, measured in a straight line from the nearest
3 entrance of the premises to be licensed to the nearest
4 boundary of the city, \$500 for a unit of a nationally
5 chartered veterans' organization and \$650 for all other
6 licensees;

7 (d) for each license in incorporated cities with a
8 population of 10,000 or more or within a distance of 5 miles
9 thereof, measured in a straight line from the nearest
10 entrance of the premises to be licensed to the nearest
11 boundary of the city, \$650 for a unit of a nationally
12 chartered veterans' organization and \$800 for all other
13 licensees;

14 (e) the distance of 5 miles from the corporate limits
15 of any incorporated cities and incorporated towns is
16 measured in a straight line from the nearest entrance of the
17 premises to be licensed to the nearest boundary of the city
18 or town; and where the premises of the applicant to be
19 licensed are situated within 5 miles of the corporate
20 boundaries of two or more incorporated cities or
21 incorporated towns of different populations, the license fee
22 chargeable by the larger incorporated city or incorporated
23 town applies and must be paid by the applicant. When the
24 premises of the applicant to be licensed are situated within
25 an incorporated town or incorporated city and any portion of

1 the incorporated town or incorporated city is without a
2 5-mile limit, the license fee chargeable by the smaller
3 incorporated town or incorporated city applies and must be
4 paid by the applicant.

5 (f) an applicant for the issuance of an original
6 license to be located in areas described in subsection (d)
7 of this subsection shall provide an irrevocable letter of
8 credit from a financial institution that guarantees that
9 applicant's ability to pay a \$20,000 license fee. A
10 successful applicant shall pay a one-time original license
11 fee of \$20,000 for a license issued. The one-time license
12 fee of \$20,000 may not apply to any transfer or renewal of a
13 license issued prior to July 1, 1974. All licenses, however,
14 are subject to the annual renewal fee.

15 (8) The fee for one all-beverage license to a public
16 airport is \$800. This license is nontransferable.

17 (9) The annual fee for a special beer and table wine
18 license for a nonprofit arts organization under 16-4-303 is
19 \$250.

20 (10) The annual fee for a restaurant beer and wine
21 license under [section 1] is \$800.

22 ~~{10}~~(11) The license fees provided in this section are
23 exclusive of and in addition to other license fees
24 chargeable in Montana for the sale of alcoholic beverages.

25 ~~{11}~~(12) In addition to other license fees, the

1 department of revenue may require a licensee to pay a late
2 fee of 33 1/3% of any license fee delinquent on July 1 of
3 the renewal year, 66 2/3% of any license fee delinquent on
4 August 1 of the renewal year, and 100% of any license fee
5 delinquent on September 1 of the renewal year.

6 ~~{12}~~(13) All license and permit fees collected under
7 this section must be deposited as provided in 16-2-108."

8 NEW SECTION. Section 3. Codification instruction.
9 [Section 1] is intended to be codified as an integral part
10 of Title 16, chapter 4, part 1, and the provisions of Title
11 16, chapter 4, part 1, apply to [section 1].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0438, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

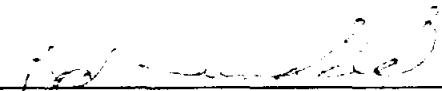
An act creating a restaurant beer and wine license, exempting the license from quota limitations, and providing an annual fee.

ASSUMPTIONS:


1. There are approximately 1,100 restaurants that derive 50% or more of their income from food service and employ one or more people in the 29 Montana counties that currently are at their quota for on-premises beer and wine licenses (Department of Revenue, and U.S. Bureau of the Census, County Business Patterns).
2. All of these 1,100 restaurants derive at least 60% of their gross income from the sale of food to be consumed on the premises.
3. All 1,100 restaurants apply for and are granted a restaurant beer and wine license.
4. No restaurants in the remaining 27 counties apply for or are granted a restaurant beer and wine license.
5. Because of their small size and more limited ability to afford an \$800 annual license fee, no restaurants in any county operated exclusively by a self-employed person (persons) apply for or are granted a restaurant beer and wine license.
6. All restaurants that have existing beer and wine licenses and that qualify for this new license will sell or otherwise dispose of their current licenses to establishments that do not qualify for this new license.
7. Half of the new licenses are issued in FY92 and half in FY93.
8. A \$100 one time processing fee is charged at the time of the issuance of the new license.
9. An additional 4.70 FTE employees are required to administer and regulate the new licenses. These FTE, at full implementation, consist of an additional 2.00 FTE investigators, 1.50 auditors, and 1.20 technicians plus travel, supplies and other expenses in order to administer and regulate the new licenses.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



MARK O'KEEFE, PRIMARY SPONSOR DATE
Fiscal Note for HB0438, as introduced
2/5/91
HB 438

Fiscal Note Request, HB0438, as introduced

Form BD-15

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FISCAL IMPACT:

Expenditures:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0	2.35	2.35	0	4.70	4.60
Personal Services	0	49,418	49,418	0	98,837	98,837
Operating Expenses	0	18,079	18,079	0	36,158	36,158
Total	0	67,497	67,497	0	134,995	134,995
<u>Funding:</u>						
Liquor Enterprise Fund (06)	0	67,497	67,497	0	134,995	134,995

Revenues:

Restaurant Beer & Wine Lic. (01)	0	495,000	495,000	0	935,000	935,000
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposal would generate approximately \$880,000 annually for the general fund.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If Section 16-4-503 of current law were amended to include this new restaurant beer and wine license, then incorporated cities and towns along with counties could issue a local license for every new restaurant license issued, with potential local revenue totaling \$880,000 annually.

TECHNICAL NOTE:

This legislation will reduce the value of existing liquor licenses. Owners of current licenses may claim that the state has taken their property without compensation. The cost of compensating current owners is unknown and is not considered in this fiscal note.

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