

HOUSE BUSINESS AND INDUSTRY

March 4, 1981

SUMMARY OF BILLS TO BE HEARD TODAY -

SENATE BILL 11 -

Introduced by Senator Galt by request of the Revenue Oversight Committee, amend the law on transfer of all beverage liquor license in certain cases. This bill amends the floater provisions of the liquor license law to authorize transfer of a license from an incorporated area to an unincorporated area of the same count when the originating area is at least 25% over quota and will not fall below that level because of the transfer.

SENATE BILL 78 -

Introduced by Senator Severson, revises the method of determining distance requirements for establishing the quota limits on retail beer licenses. This bill changes the method of measuring the 5-mile zone surrounding a town or city and included in the statutory limit on number of beer licenses. Under this bill the distance would be measured "over the shortest practical route" while the current law requires measurement "in a straight line." The bill provides that when the distance is in dispute, the question shall be settled by measuring the distance "by a vehicle equipped with an accurate odometer" over a route "reasonably passable during the entire year."

SENATE BILL 249 -

Introduced by Senators Dover and Keating, is intended to control "keggers" and the consumption of beer by minors by regulating the sale of beer in kegs. Current law requires recording the identification number of each keg at time of sale. This bill changes the law to require recording of the identification number of the pump rather than of the keg. The bill also amends current law to require the retailer to preserve the information for 30 days rather than one year and to allow law officers to confiscate the keg, contents and pump only if minors are present and if the consumers are unable to produce a copy of record of purchase.

SENATE BILL 338 -

Introduced by Senator Keating, amends the present law to allow the holder of a beer-and-wine license to sell wine for consumption on or off the premises. This bill, as it came out of the Senate in its amended form, is almost identical to HB 743, which this committee approved unanimously.

SENATE BILL 85 -

Introduced by Senator Dover, exempts nonprofit corporations or organizations or religious corporations sole from the \$1,000 ceiling on value of raffle prizes when the raffle is licensed by the county commissioners. The license application must reveal the "cost and number of raffle tickets to be sold", the charitable purposes of the raffle and the proposed prizes and their value. An accounting to the county commissioners is required within 30 days after the completion of the raffle.

HOUSE BUSINESS AND INDUSTRY COMMITTEE

Rep. W. J. Fabrega, Chairman, called the B&I Committee to order at 8:00 a.m. in room 129, Capitol Building, on March 4, 1981. All members of the committee were present. Bills to be heard were SB 11, 249, 338, and SB 85.

SENATE BILL 85 -

SENATOR HAROLD DOVER, District #24, Fergus County, sponsor, said SB 85 provides a means to raise money for benevolent purposes through raffles. His community raised money this way and collected enough to do several beneficial projects for the area. They went to do it again and found it was illegal and so they asked Sen. Dover to put this bill in. It has been amended. It has to be licensed by the County Commissioners and the proceeds could be used only for charitable purposes or prizes. An accounting must be submitted 30 days following the completion of the raffle. It is to be a very controlled type of event and provides for very worthy causes by organizations such as the Jaycees.

AMOS ANDERSON, Central Montana Jaycees, Lewistown, president, said in 1979 they needed to raise some money for the community so they had a raffle for a 1979 half-ton 4 x 4 pickup. The raffle was a complete success and they have given away over \$6,000 from this source. When they went to run the raffle again, they found out they couldn't so they contacted the county attorney and he said it was illegal and that the best way to get the law introduced into the Legislature was by such a bill.

OPPONENTS: None

QUESTIONS -

Rep. Kitselman said the exchange of cash is the biggest problem as you are not supposed to do that. Rep. Kessler asked the value of their prizes. Mr. Anderson said they sold 22,500 tickets at \$100, and they then found out prizes cannot exceed \$1,000 in value.

Sen. Dover said a raffle for someone in need would be applicable. The bill doesn't seem to address the limitation on the value of the prizes. They still couldn't raffle off an automobile. Section 23-5-413 covers this.

SENATE BILL 249 -

SENATOR HAROLD DOVER, District #24, Fergus County, co-sponsor, said SB 249 would help protect children and prosecute offenders. Beer cannot be given or sold to anyone under 19 years of age. It is difficult to prosecute offenders because it is difficult to determine who bought the keg. SB 249 requires pumps to be numbered. The sheriff can confiscate them if there is no number on them. Billings has had a great deal of effect on these "keggers" by using this method. The law must be enforced and this way it can be done.

3/4/81

Page 2

TERRY CARMODY, Townsend Mayor, said alcohol is the number 1 killer of highschool students. It is difficult to trace back to see who is purchasing kegs for kids when they have keggers. Highschool kids and into the junior high are getting into these keggers and if we are going to do something for them, we have to shut down some of their supply. He asked support of this bill.

ROGER TIPPY, representing Beer Wholesalers Association, does not have a stand one way or another on SB 249 as amended because some of the problems have been taken care of in the Senate. He corroborated that in Yellowstone County the law enforcement people got together with the five beer distributors in the Billings area and they were able to work through those five wholesalers and go around and scribe a number on the pumps and keep a record, and they believe that the keg business has not been abused in Billings since this program went into effect. There is a question about the pumps that are not checked out by the retailer. The purchaser pays a deposit and does not redeem the deposit until the pump is returned. It might be required that the pump be brought in when a keg is purchased.

OPPONENTS: None

QUESTIONS -

Sen. Dover said a pump with no number that was at a kegger would be confiscated by the sheriff. The person to whom a pump was issued is responsible for what is going on at a kegger, and the number on the pump indicates to whom the pump was issued.

Rep. Harper thought it might be just as well to let a voluntarily working program alone and not force more paperwork on the wholesalers. Sen. Dover said the forms are furnished by the wholesalers, and because some are doing it and some are not, this bill would make it stabilized.

Rep. Pavlovich asked about who is going to keep track of the thousands of kegs and 150 pumps. Sen. Dover said the distributor takes care of the name and address and deposit. When a kegger is going on and the sheriff asks who got the keg, the number of the pump is traced back and who bought the keg can be found out, and he is responsible. You have to be careful who you let use your pump.

A young man from the audience interrupted to say they will just go to Brown Derby Beer - an 18-year old can be drafted, but he can't drink!

SENATOR KEATING, District #32, Yellowstone County, said part of the problem is that the older kids will buy the beer and feed it to the younger kids at keggers and this way the sheriff can find out who is doing this. Retailers are in favor of it. If they sell to minors, they are in trouble and it becomes their responsibility if they are the buyer. It has worked in the Billings area - the older kids are still having their keggers and assume that responsibility, but it has prevented it from going down the line to 15-16 year olds. Kids found out Yellowstone County was the only

3/4/81

Page 3

one with this program. Other sheriffs were not involved in the program, so kids went to other counties for their keggers. With this bill passed at the state level, those sheriff's will have this law as a guide or as an aid in controlling some of this.

Rep. Ellison felt it is purely a law enforcement program between a sheriff and retailers and wholesalers.

Sen. Dover closed saying many of these 19-year old young people don't realize the penalties they are imposing upon themselves when they start providing liquor to 15-16 year olds. This is one thing that can protect them and help them realize the responsibility is their. If they want to break the law and pass the buck, then they will have to pay for it.

SENATE BILL 338 -

SENATOR KEATING, District #32, Yellowstone County, sponsor of SB 338, explained section 16-4-105 originally provided for beer licenses only and several years ago this was amended to permit the sale of wine for consumption on the premises if it were supplementary to a prepared food or restaurant business. Many of these places have specialty wines and imported beers and usually carry a pretty good quality of wine, some of which are not offered elsewhere, but a person cannot buy any to take home - it has to be consumed on the premises. SB 338 will permit those places to sell wine and increase their business by selling wine to a discriminating clientele.

BOB DURKEE, Montana Tavern Association, Helena, supports the bill. The restrictions on the wine amendment were written prior to the administrative change granted to grocery stores to sell wine and he feels the restaurants should be permitted to sell wine for off-premises consumption.

OPPONENTS: None

QUESTIONS -

In answer to a question from Rep. Andreason, Roger Tippy said HB 743 is identical to SB 338.

Senator Keating closed thanking the committee for their consideration and time.

SENATE BILL 78 - (Continued)

Because of not being properly notified as to hearing date, other testimony on SB 78 is continued.

BOB DURKEE, Montana Tavern Association, Helena, supports SB 78. Using the word "practical" creates a situation where someone has to determine the meaning of the word "practical", so their suggestion was to delete this word, otherwise the association supports this bill.

3/4/81

Page 4

OPPONENTS TO SB 78: None

QUESTIONS -

LEON MESSERLY, Liquor Division of the Department of Revenue, has no problems with SB 78. Would like to see the amendment made to this bill. "Practical" is difficult to find a meaning for - "shortest" is the easiest to determine, but "practical" is difficult to define.

SENATE BILL 11 -

SENATOR TURNAGE, District #13, Lake County, explained SB 11 which was sponsored by Senator Galt by request of the Revenue Oversight Committee. This bill is an effort to address the ancient problem of all-beverage licenses and quota. It allows a city or town located within a county to transfer a floater license into the county if the city or town has at least 25% over their quota of licenses and their quota will not fall below their allowable licenses.

BOB DURKEE, Montana Tavern Association, supports SB 11. The problem arose in Meagher County where a license was floated out into Bozeman leaving the little town of Ringling without a liquor license. Some are far over quota and this makes use of excess licenses, and it is within the same county so it does not allow any flagrant abuse of this. He can't understand why a city wants to float a license out and into the county. They do endorse SB 11.

OPPONENTS: None

QUESTIONS -

Rep. Manning remarked that at the present time this bill would probably only encompass that problem in that one area. There are some areas in the western part of the state that might have some developing recreation areas where this might occur. Mr. Messerly said there are other areas in the state - Bozeman or Billings could sell a license into the county. It is a possibility that it could be used around the state.

Rep. Andreason asked if floater licenses can be transferred if one area is 25% above and the other area is not yet 125%. Mr. Messerly said if a city was right exactly on 125% of quota, then it could drop below that, and so another license could be replaced, but by removing a city license that is over-quota, it cannot be replaced in the city. They can be marketed and sold, but cannot be transferred back into the city.

Senator Turnage did not close.

EXECUTIVE SESSION -

Rep. Schultz moved SENATE BILL 85 BE CONCURRED IN. Rep. Harper moved an amendment on Page 1, line 16. following "RAFFLE.;" insert: "A separate license shall be required for each raffle conducted." Motion amend carried unanimously. SENATE BILL 85 was unanimously adopted as BE CONCURRED IN AS AMENDED.

3/4/81

Page 5

Rep. Meyer moved SENATE BILL 249 NOT BE CONCURRED IN. He feels youngsters will go out and buy cheap wine instead of beer. Rep. Andreason made a substitute motion that SENATE BILL 249 BE CONCURRED IN. He thinks this is a very, very good bill. Rep. Kessler supports the bill. Under current law kegs are not registered. This bill applies only when minors are present and only kids are present. The bill passed by a roll call vote of 12 - 6. Rep. Ellison was absent.

Rep. Jensen moved SENATE BILL 338 BE TABLED. It is the same as HB 743. Motion was adopted unanimously.

Rep. Harper moved SENATE BILL 11 BE CONCURRED IN - it was unanimously carried.

Paul Verdon, committee researcher, recommended SENATE BILL 78 be amended to define the route to be the "shortest public road or highway". Rep. Manning moved such an amendment be adopted, and they were with Rep. Andreason voting No, and Rep. Ellison absent. Rep. Manning moved SENATE BILL 78 AS AMENDED BE CONCURRED IN. Rep. Andreason thinks the straight line limitation should remain in affect. Motion carried with Reps. Andreason, Wallin, Metcalf, O'Hara, Jensen, Kitselman, Harper voting No, and Rep. Ellison being absent.

Meeting adjourned at 9:30 a.m.

Jo Lahti
Jo Lahti, Secretary

W. J. Fabrega
REP. W. J. FABREGA, CHAIRMAN

44-34

HOUSE

BILL

Date _____

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE COMMITTEE

BILL

Date _____

SPONSOR _____

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

BILL

Date _____

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.