

HOUSE BUSINESS AND INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on January 20, 1983, at 8:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present.

HOUSE BILL 18 EXECUTIVE SESSION:

REP. WALLIN: After 40 years in the automobile industry, I have as much understanding of it as anyone. I have found some faults in HB 18 one being that you must notify the dealer - this is a manufacturer problem. Many times the dealer and the manufacturer don't agree. The person should notify the factory himself or their agent. Also, replacing with an identical vehicle is a problem. Many models are discontinued. This bill would require lawyers for enforcement. California excludes vehicles like motor homes and off the road vehicles. The cash settlement should not be determined by the sticker price - too many variables in the final price actually paid for the vehicle. Autocap will take care of most problems instead of a bill that will require attorneys to settle the matter.

REP. LYBECK: Maybe we need a motion before we start. Perhaps we shouldn't get into all these amendments. Two out of three complaints yesterday were on foreign cars. Maybe that's the problem. I move to DO NOT PASS HB 18.

REP. METCALF: This bill addresses a recurring problem with the manufacturer warranties that cannot be solved.

REP. FABREGA: I realize there are amendments needed with this bill but I think this would give Autocap more incentive to work on problems.

REP. HANSEN: Rep. Wallin, have you as a dealer ever given a new car to an unsatisfied customer? Rep. Wallin: Maybe one or two. Rep. Hansen: Does the factory make that good to you? Rep. Wallin: No.

REP. HARPER: I would like to go through the amendments that Mr. Schwertfeger offered. (Exhibit #1)
Amendment #1: Following "vehicle" Insert: "that has not been brought into nonconformity as the result of abuse, neglect or unauthorized modifications or alterations by the purchaser"
So Moved - PASSED UNANIMOUSLY.
Amendment #2: Page 2, line 5, Following: "notifies" Insert: "in writing" - Following: "agent" Strike: "or authorized dealer"
So Moved - PASSED UNANIMOUSLY.
Amendment #3: Page 2, line 18, Following: "and" Insert: "market"
Following: "value" Insert: "or safety"
So Moved - PASSED - Rep. Pavlovich voting no.

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Amendment #4: Page 2, line 21, Following: "value" Insert: ", unless, for reasons of lack of availability, such replacement is impossible, with a vehicle of comparable market value" So moved - PASSED UNANIMOUSLY.

Amendment #5: Page 2, line 25, Strike "collateral charges" Insert: "sales tax, license fee, registration fees, and any similar governmental charges" So moved - PASSED UNANIMOUSLY.

Amendment #6: Page 3, line 5, Following: "consumer" Insert: "and any previous consumers" Following: "first" Insert: "written" So moved - PASSED UNANIMOUSLY.

Amendment #7: Page 3, line 6, Following: "manufacturer" Strike: ", agent or dealer" Insert: "or its agent" So moved - PASSED UNANIMOUSLY.

Amendment #8: Page 3, line 17, Following: "because of" Strike: "the" So moved - PASSED UNANIMOUSLY.

Amendment #9: Page 3, line 18, Following: "more" Insert: "business" So moved - PASSED UNANIMOUSLY.

Amendment #10: Page 3, line 25, Following: "disaster." Insert: "The presumption provided herein may not apply against a manufacturer who has not received prior written notification from or on behalf of the consumer and has not had an opportunity to cure the alleged defect." So moved - PASSED UNANIMOUSLY.

Amendment #11: Page 4, line 7, Following: "in" Insert: "substantial" So moved - PASSED - Rep. Hansen, Rep. Pavlovich, Rep. Kadas, Rep. Nisbet, Rep. Howe, Rep. Bachini voting no.

Amendment #12: Page 4, following line 10, Insert: "Section 8. Dealer exemption. Nothing in [this act] imposes any liability on a dealer or creates a cause of action by a consumer against a dealer under section 3. Section 9. Applicability. [This act] applies only to covered motor vehicles purchased after October 1, 1983." So moved - PASSED UNANIMOUSLY.

REP. FABREGA: I make a substitute motion that House Bill 18 DO PASS AS AMENDED.

REP. WALLIN: I want you to know that I will vote for the amended bill.

Motion passed by unanimous vote.

REP. FABREGA: I move that House Bill 175 be tabled until a later date. Motion passed by unanimous vote.

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HOUSE BILL 106

REP. CAL WINSLOW, District 65, sponsor, said the purpose of this bill is to put a penalty on foreign corporations that transact business in this state without a certificate of authority. The penalty would be \$5 per day.

PROPOSERS:

ALAN ROBERTSON, Attorney, Secretary of State's Office, said the present statute provides for such a small penalty, it's not worth going after - not cost effective. A study has shown that 17% of those known corporations doing business in Montana applied for the certificate after they were actually doing business. California has a \$20 per day penalty. He said domestic corporations could never get away without getting their certificates.

FLORENCE ARMAGEST, Secretary of State's Office, stated that at present the penalty for corporations operating without a certificate is 10% of the license fee which is \$50 so the penalty is \$5. There is also \$20 we can impose for two years of annual reports. Also we can charge 1/2 of 1 percent of the license fee that would have been due, which amounts to 25 cents per month plus interest. Therefore, at the present time we could charge a total of \$34 and at the proposed penalty we would realize \$5470 - quite a difference.

OPPOSERS: none

REP. WINSLOW: This bill attempts to get a handle on the corporations that come in here. We are talking about quite a bit more money. At a time when we are trying hard to encourage our own businesses to open here in Montana, I certainly think we need to take a close look at this.

QUESTIONS:

REP. PAVLOVICH: Would you object if we raised this to \$20?
Mr. Robertson: I think that might be excessive. We don't want to run people out of the state.

REP. WALLIN: What do you mean by "foreign?" Mr. Robertson: Out of state.

REP. FABREGA: When you say "doing business", does it mean sending a salesman or actually opening a business here? Mr. Robertson: We have a list of what constitutes "doing business."

REP. PAVLOVICH: Do we have any foreign countries that violate this? Mr. Robertson: Perhaps Canada but it's more from other states.

REP. METCALF: If companies have to have a certificate to operate, shouldn't there be some mechanism for you to review and notify?

Mr. Robertson: There has not been an impetus because the fine is not that great.

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Business & Industry Committee

HOUSE BILL 158

REP. TONI BERGENE, District 36, sponsor, opened by saying she was requested by the Secretary of State's office to handle this bill. There will be a Statement of Intent with this bill.

PROPOSERS:

ALAN ROBERTSON, Attorney, Secretary of State's Office, said this bill attempts to handle three areas. It allows the Secretary of State to set filing charges at a level commensurate with costs. It will allow them to deal with discrepancy filing fees right away. He anticipates the fees will go down with this bill.

OPPOSERS: none

QUESTIONS:

REP. HARPER: It's unclear to me how you are going to set fees that are "reasonably related" to the cost of processing the documents. I think we should be a bit more specific.

REP. FABREGA: With this bill you are trying to avoid other bills in the future to take care of things that might come up? Mr. Robertson: Yes.

EXECUTIVE SESSION: HOUSE BILL 106

REP. FAGG: I move that HOUSE BILL 106 DO PASS.

Question: PASSED BY UNANIMOUS VOTE.

HOUSE BILL 158

REP. KITSELMAN: I move that HOUSE BILL 158 DO PASS.

REP. HARPER: I propose the following amendment: That we put in the words "commensurate with costs" and "miscellaneous charges" where applicable to protect the public.

Also to amend the Statement of Intent the same as the bill. So moved. Passed unanimously.

Question: HOUSE BILL 158 PASSED AS AMENDED BY UNANIMOUS VOTE.

HOUSE BILL 132

REP. PAVLOVICH: The Subcommittee's Report on HB 132 (Exhibit #2) is in front of you with the exception of the provision on Page 5, line 10, Following "fee" Insert: "33 1/3% of any license fee delinquent on July 1 of the renewal year, 66 2/3% of any license fee delinquent on August 1 of the renewal year, and 100% of any license fee delinquent on September 1 of the renewal year."

REP. FAGG: I move that we adopt the amendments of the subcommittee.

Question: Passed unanimously.

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REP. FABREGA: I move that HOUSE BILL 132 DO PASS AS AMENDED.
Question: PASSED BY UNANIMOUS VOTE.

The hearing adjourned at 10:30 a.m.

J. Metcalf

JERRY METCALF, CHAIRMAN

Linda Palmer

Linda Palmer, Secretary

STANDING COMMITTEE REPORT

January 20

19 83

MR. Speaker:

We, your committee on Business & Industry

having had under consideration House Bill No. 18

a first reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A MANUFACTURER TO HONOR THE EXPRESS WARRANTY ON A NEW MOTOR VEHICLE; PROVIDING FOR REPLACEMENT OF OR REFUND FOR A NEW MOTOR VEHICLE THAT DOES NOT CONFORM TO ITS WARRANTY AFTER A REASONABLE NUMBER OF ATTEMPTS HAVE BEEN MADE TO CONFORM THE VEHICLE TO ITS WARRANTY; EXTENDING THE WARRANTY PERIOD BECAUSE OF DELAYS CAUSED BY DISASTERS; AND ALLOWING OTHER REMEDIES."

Respectfully report as follows: That House Bill No. 18

Be amended as follows:

Title, line 10
Strike: "AND"

Title, line 11
Following: "AND REMEDIES"
Insert: "; EXEMPTING A DEALER FROM LIABILITY; AND PROVIDING AN APPLICABILITY DATE"

Page 1, line 17
Following: "vehicle"
Insert: "that has not been brought into nonconformity as the result of abuse, neglect or unauthorized modifications or alterations by the purchaser"

Page 2, line 5
Following: "notifies"
Insert: "in writing"

~~xxxxxx~~
DO PASS
Following: "agent"
Strike: "or authorized dealer"

Page 2, line 13

Following: "and"

Insert: "market"

Following: "value"

Insert: "or safety"

Page 2, line 21

Following: "value"

Insert: ", unless, for reasons of lack of availability, such replacement is impossible, with a vehicle of comparable market value"

Page 2, line 25

Before: "less"

Strike: "collateral charges"

Insert: "sales tax, license fee, registration fees, and any similar governmental charges"

Page 3, line 5

Following: "consumer"

Insert: "and any previous consumers"

Following: "first"

Insert: "written"

Page 3, line 6

Following: "manufacturer"

Strike: ", agent or dealer"

Insert: "or its agent"

Page 3, line 17

Following: "because of"

Strike: "the"

Page 3, line 18

Following: "more"

Insert: "business"

Page 3, line 25

Following: "disaster."

Insert: "The presumption provided herein may not apply against a manufacturer who has not received prior written notification from or on behalf of the consumer and has not had an opportunity to cure the alleged defect."

Page 4, line 7

Following: "in"

Insert: "substantial"

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Page 4, following line 10

Insert: "Section 3. Dealer exemption. Nothing in [this act] imposes any liability on a dealer or creates a cause of action by a consumer against a dealer under section 3.

Section 9. Applicability. [This act] applies only to covered motor vehicles purchased after October 1, 1993."

AND AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

January 20

19 33

MR. Speaker:

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE Bill No. 106
first reading (write)

**A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A PENALTY ON
FOREIGN CORPORATIONS THAT TRANSACT BUSINESS IN THIS STATE
WITHOUT A CERTIFICATE OF AUTHORITY; AMENDING SECTION
35-1-1004, MCA."**

Respectfully report as follows: That HOUSE Bill No. 106

DO PASS

STANDING COMMITTEE REPORT

Page 1 of 5

January 21

19 83

MR. Speaker:

We, your committee on Business & Industry

having had under consideration HOUSE Bill No. 132
first reading (white)

**A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A LATE FEE
TO BE CHARGED TO MONTANA ALCOHOLIC BEVERAGE LICENSEES WHO
FAIL TO PAY ANNUAL RENEWAL FEES IN A TIMELY MANNER; AMENDING
SECTION 16-4-501, MCA."**

Respectfully report as follows: That HOUSE Bill No. 132

Be amended as follows:

~~XDC/ASSX~~

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1. Title, line 7.

Following: "MANNER;"

Insert: "AUTHORIZING SUSPENSION OR REVOCATION OF ALCOHOLIC BEVERAGE LICENSES IF ANNUAL RENEWAL FEE IS NOT TIMELY PAID; ELIMINATING PROVISIONS THAT ALCOHOLIC BEVERAGE LICENSES EXPIRE JUNE 30 OF EACH YEAR;"

2. Title, line 8.

Following: line 7

Strike: "SECTION"

Insert: "SECTIONS 16-4-204, 16-4-407, AND"

3. Page 1.

Following: line 10

Insert: "Section 1. Section 16-4-204, MCA, is amended to read:

"16-4-204. Contents of license -- posting -- privilege -- catering endorsement -- transfer -- expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of the department or to any peace officer of the state of Montana.

(2) Any license issued under the provisions of this part shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(3) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling liquor under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit

a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(5) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(6) (a) Except as provided in subsection (6) (b), a license may be transferred to a new ownership and to a location outside the quota area for which it was originally issued only when the following criteria are met:

(i) the total number of all-beverages licenses in the original quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred did not exceed that area's quota by more than 33% in the most recent census prescribed in 16-4-502; and

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by such a transfer.

(b) A license within an incorporated quota area may be transferred to a new ownership and to a new unincorporated location within the same county on application to and with consent of the department when the quota of the all-beverages licenses in the original quota area exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(c) For 5 years after the transfer of a license between quota areas under subsection (6) (a), the license may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee. A license transferred between quota areas under this section may be held only by natural persons for 5 years following the transfer. For the purpose of this section, natural persons shall not include limited partnerships or other business entities

of any kind in which each natural person is not a full participant in the ownership and operation of the business authorized by the license.

(d) Once a license is transferred to a new quota area under subsection (6)(a), it may not be transferred to another quota area or back to the original quota area.

(7) (a) Any all-beverage licensee is, upon the approval and in the discretion of the liquor division, entitled to a catering endorsement to his all-beverage license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages, such beverages to be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of \$40 must be filed with the department at least 10 days prior to the event and shall describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

(d) The licensee shall file with each application for an event to be catered a written statement of approval of the premises where the event is to be held issued by the department of health and environmental sciences.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license.

~~(9) All licenses shall expire at midnight of June 30 of each year.~~

Section 2. Section 16-4-407, MCA, is amended to read:

*16-4-407. Expiration of licenses. Each July 1, the department shall issue licenses to brewers, wholesalers, or retailers or for the retail sale of alcoholic beverages on an annual basis and at such fees as are prescribed by law, and such licenses shall expire and are subject to suspension or revocation under 16-4-406 after midnight of June 30 of the succeeding year if the annual renewal fees required by 16-4-501 are not paid. The department shall notify each applicant for an original license or renewal that he should inform himself of applicable provisions of federal law which may require a permit from a federal agency.**

Remember: All subsequent sections.

Page 5, line 6

Strike: "not" on line 6 and lines 7 through 10 ~~through~~ "fee"

Page 5, line 10

Following: "fee"

Insert: "33 1/3% of any license fee delinquent on July 1 of the renewal year, 66 2/3% of any license fee delinquent on August 1 of the renewal year, and 100% of any license fee delinquent on September 1 of the renewal year"

AND AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

January 21

19 83

MR. **Speaker:**

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration **HOUSE**

Bill No. **158**

first reading (white)

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE FEES COLLECTED FOR FILING OF DOCUMENTS RELATING TO ASSUMED BUSINESS NAMES, TRADEMARKS, AND NONPROFIT CORPORATIONS BE ESTABLISHED BY THE SECRETARY OF STATE COMMENSURATE WITH COSTS; AMENDING SECTIONS 30-13-217, 30-13-311, 30-13-312, 30-13-315, AND 35-2-1001, MCA."

Respectfully report as follows: That **HOUSE**

Bill No. **158**

Be amended as follows:

Title, line 6

Following: "FEES"

Insert: "AND MISCELLANEOUS CHARGES"

Page 2, line 9

Following: "certificates"

Insert: ", commensurate with costs,"

Page 5, line 21

Following: "part"

Insert: "and commensurate with costs"

Page 6, line 1

Following: "fees"

Insert: "and miscellaneous charges"

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Page 7, line 23

Following: "chapter"

Insert: "and commensurate with costs"

Page 8, line 3

Following: "fees"

Insert: "and miscellaneous charges"

AND AS AMENDED
DO PASS

"STATEMENT OF INTENT ATTACHED"

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS AND INDUSTRY, HAVING
HAD UNDER CONSIDERATION HOUSE BILL NO. 158, FIRST
READING COPY WHITE, ATTACH THE FOLLOWING STATEMENT
OF INTENT:

"STATEMENT OF INTENT
HOUSE BILL NO. 158" [LC 623]

A statement of intent is required for this bill because sections 2, 7, and 9 grant the Secretary of State authority to establish fees and miscellaneous charges commensurate with costs for filing documents and issuing certificates required by Title 30, chapter 13, parts 2 and 3, and by Title 35, chapter 2. The fees are to be established by rules to be adopted under the Montana Administrative Procedure Act. The documents and certificates for which filing fees may be charged under those rules include those specifically mentioned in 30-13-217, 30-13-311, 30-13-313, 30-13-315, and 35-2-1001, MCA, prior to amendment by this bill, and any others required under Title 30, chapter 13, parts 2 and 3, and Title 35, chapter 2. These rules must allow the filing and billing for filing fees to be accomplished by mail.

House Committee Amendments suggested to House Bill 18 by Motor Vehicle Manufacturers Association of U. S. before the Montana House Business and Industry Committee, January 18, 1983.

AMEND HOUSE BILL 18 AS FOLLOWS:

Amendment No. 1

On Page 1, line 17, after the word "vehicle," insert the following: "normally used for personal, family or household purposes".

Amendment No. 2

On Page 1, line 23, delete the word "or" and at the beginning of line 24, delete the word "property".

Amendment No. 3

On Page 2, line 5, after the word "notifies", add the words "in writing" and at the end of line 5, delete the words "or authorized dealer".

Amendment No. 4

On Page 2, line 18, before the word "value", insert the word "market".

Amendment No. 5

On Page 2, line 20, delete the word "new" and substitute in lieu thereof the word "comparable" and in line 20, after the word vehicle, delete the remainder of the line.

Amendment No. 6

On Page 2, at the beginning of line 21, delete the words "style and" and at the end of line 21, after the word "equal", add the word "market".

Amendment No. 7

On Page 2, line 25, delete the words "collateral charges" and insert in lieu thereof the words "sales tax, license fees, registration fees and any similar governmental charges".

Amendment No. 8

On Page 3, line 5, after the word "consumer", insert the words "and any previous consumers" and in line 5, after the word "first", add the word "written".

Amendment No. 9

On Page 3, line 6, delete the words and punctuation ",agent, or dealer" and insert in lieu thereof, "or its agent".

Amendment No. 10

On Page 3, line 18, after the word "more", add the word "business".

Amendment No. 11

On Page 3, at the end of line 25, add the following:

"In no event shall the presumption herein provided apply against a manufacturer unless the manufacturer has received prior written notification from or on behalf of the consumer and has received an opportunity to cure the alleged defect."

Amendment No. 12

On Page 4, line 7, after the word "in", add the word "substantial".

Amendment No. 13

On Page 4, after line 10, insert the following:

"Section 8. Any action brought under this act shall be commenced within six months following (1) expiration of the express warranty term or (2) one year following the date of original delivery of the motor vehicle to the consumer, whichever is the earlier date."

1. Title, Line 7
Following: "MANNER;"
Insert: "AUTHORIZING SUSPENSION OR REVOCATION OF ALCOHOLIC BEVERAGE LICENSES IF ANNUAL RENEWAL FEE IS NOT TIMELY PAID; ELIMINATING PROVISIONS THAT ALCOHOLIC BEVERAGE LICENSES EXPIRE JUNE 30 OF EACH YEAR;"
2. Title, line 8
Before: "16-4-501,"
Strike: "SECTION"
Insert: "SECTIONS 16-4-204, ~~16-4-407~~ 16-4-407, AND"
3. Page 1, Line 11
Following: "Section 1."
Insert: "Section 16-4-204, MCA, is amended to read:

16-4-204. "Contents of license — posting — privilege — catering endorsement — transfer — expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of the department or to any peace officer of the state of Montana.

(2) Any license issued under the provisions of this part shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(3) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling liquor under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the

license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(5) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(6) (a) Except as provided in subsection (6)(b), a license may be transferred to a new ownership and to a location outside the quota area for which it was originally issued only when the following criteria are met:

(i) the total number of all-beverages licenses in the original quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred did not exceed that area's quota by more than 33% in the most recent census prescribed in 16-4-502; and

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by such a transfer.

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(b) A license within an incorporated quota area may be transferred to a new ownership and to a new unincorporated location within the same county on application to and with consent of the department when the quota of the all-beverages licenses in the original quota area exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(c) For 5 years after the transfer of a license between quota areas under subsection (6)(a), the license may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee. A license transferred between quota areas under this section may be held only by natural persons for 5 years following the transfer. For the purpose of this section, natural persons shall not include limited partnerships or other business entities of any kind in which each natural person is not a full participant in the ownership and operation of the business authorized by the license.

(d) Once a license is transferred to a new quota area under subsection (6)(a), it may not be transferred to another quota area or back to the original quota area.

(7) (a) Any all-beverage licensee is, upon the approval and in the discretion of the liquor division, entitled to a catering endorsement to his all-beverage license to allow the catering and sale of alcoholic beverages to

persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages, such beverages to be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of \$40 must be filed with the department at least 10 days prior to the event and shall describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

(d) The licensee shall file with each application for an event to be catered a written statement of approval of the premises where the event is to be held issued by the department of health and environmental sciences.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license. "

~~(9) All licenses shall expire at midnight of June 30 of each year.~~

Section 2. Section 16-4-407, MCA, is amended to read:

Section 2. Section 16-4-407, MCA, is amended to read:

"16-4-407. Expiration of licenses. Each July 1, the department shall issue licenses to brewers, wholesalers, or retailers or for the retail sale of alcoholic beverages on an annual basis and at such fees as are prescribed by law, and such licenses ~~shall expire at~~ are subject to suspension or revocation under 16-4-406 after midnight of June 30 of the succeeding year if the annual renewal fees required by 16-4-501 are not paid. The department shall notify each applicant for an original license or renewal that he should inform himself of applicable provisions of federal law which may require a permit from a federal agency."

Section 3."

