

HOUSE BUSINESS & INDUSTRY COMMITTEE

Rep. Jerry Metcalf, Chairman, called the Business & Industry Committee to order on March 2, 1983, in Room 420 of the Capitol Building, Helena, Montana at 9:00 a.m. All members were present except Rep. Fagg & Rep. Wallin who were excused.

SENATE BILL 144

SEN. TURNAGE, District 13, sponsor, opened by saying this bill revises the liquor license quota law to allow a floater license, after its transfer to a new location, to be owned by other than natural persons.

PROPOSERS:

HOWARD HEFFELFINGER, Dept. of Revenue: In 1975 a bill was enacted to free up the quota liquor license system, particularly areas that were significantly over quota at that time. A number of commissions were placed on the floater at that time, one of them being only "natural persons" could hold such licenses. It appears that language was adopted because legislators were concerned that if it was loosened up they should require only Montana persons to hold such licenses. In 1982 the court said the department could not prohibit corporations from acquiring such quota licenses. We brought this to the attention of the oversight committee and they preferred we submit this legislation rather than appealing the case.

OPPOSERS: none

QUESTIONS: none

SENATE BILL 62

SEN. TURNAGE, District 13, sponsor, opened by saying this bill is at the request of the revenue oversight committee. The present law prevents a person from obtaining a license if any member of his immediate family has an interest in another establishment. The fear was that one family might gather up all the licenses in town and monopolize them. With the quota restrictions, this is not going to happen. There is an amendment being offered concerning brewers.

PROPOSERS:

REP. MENAHAN: I would like to support SB 62. In our area there is a man and wife who own separate establishments and she cannot put her name on her liquor license because he owns one. This is denying her the opportunity to be an independent businesswoman.

HOWARD HEFFELFINGER, Dept. of Revenue: Because of the high market value and competitiveness of liquor licenses upheld

by state policy, we try to make licensing as fair as possible. One owner per all-beverage license is the rule. Anyone can own as many beer licenses as they want. The sponsor of this bill has sought to remove the prohibition on the family ownership of licenses. It is felt these prohibitions are unfair and possibly unconstitutional.

ROGER TIPPY, Montana Beer and Wine Wholesalers Association: I appear in support of an amended SB 62. The wholesalers' objectives were to accept the Department's position that breweries and wineries should not be licensed as wholesalers in Montana while seeking an appropriate license category for a zone warehouse or storage facility such as the one in Billings several years ago. Our proposed amendment would accomplish this purpose by allowing an out-of-state brewery to have an in-state storage depot. Changes in MCA sections 16-3-230 and 16-4-102 are proposed to do this. While the amendments are fairly lengthy, they are germane to the original purposes of the bill. These amendments have been reviewed with department officials; I understand that they are acceptable with the addition of a severability clause and an accelerated effective date to July 1, 1983. (Exhibit #1)

MIKE GARRITY, Attorney, Dept. of Revenue: If we adopt the amendments, the department would recommend that the title be amended and an effective date and severability clause be included.

OPPONENTS: none

QUESTIONS:

REP. PAVLOVICH: Mr. Garrity, on page 5, line 3 it says the applicant must be 19 years of age. When you are 18 you can own a tavern and serve liquor, why the restriction on a license? Mr. Garrity: The legal drinking age is 19. The license criteria statute applies to all-beverage licenses. I am not aware of any 18 year olds owning a license. Rep. Pavlovich: I am aware of people 18 who do own licenses.

REP. SCHULTZ: On line 23, page 4, who makes the decision?

Mr. Heffelfinger: It's usually the hearings officer from the Attorney General's office.

REP. KADAS: Why do you need an effective date of July 1?

Mr. Garrity: A certain Billings wholesaler's license expires on June 30 and this will allow that they not renew that license. They will secure this storage depot license.

REP. METCALF: We have had some problems in the House with amending outside the scope of the title. Do you see a problem with these amendments?

Mr. Tippy: I don't think it's outside the scope of the title, it's not that much of a departure.

REP. HARPER: Why are you restricting breweries to maintain a depot only in a city or town?

Mr. Tippy: The facilities would most likely be near railroad sidings or industrial park areas. If we want to help the counties, we can.

EXECUTIVE SESSION:

SENATE BILL 144

Rep. Bachini: I move Senate Bill 144 BE CONCURRED IN.
QUESTION: Motion carried unanimously.

SENATE BILL 62

Rep. Kitselman: I move DO PASS the amendments presented by the Department of Revenue.

QUESTION: Motion carried unanimously.

Rep. Fabrega: I move DO PASS the amendments presented by the wholesalers.

QUESTION: Motion carried unanimously.

Rep. Fabrega: I move Senate Bill 62 BE CONCURRED IN AS AMENDED.

QUESTION: The motion carried unanimously.

The hearing adjourned at 10:00 a.m.



REP. JERRY METCALF, CHAIRMAN



Linda Palmer, Secretary

STANDING COMMITTEE REPORT

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MARCH 2

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..... 19

SPEAKER:

MR.

BUSINESS & INDUSTRY

We, your committee on

SENATE

62

having had under consideration Bill No.

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**A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
LICENSING CRITERIA LIMITING OWNERSHIP OF MONTANA RETAIL ALCOHOLIC
BEVERAGES LICENSES; AMENDING SECTION 16-4-401, MCA."**

SENATE

62

Respectfully report as follows: That..... Bill No.

BE AMENDED AS FOLLOWS:

1. Title, line 6
Following: "MONTANA"
Strike: "RETAIL"

2. Title, line 7
Following: "LICENSES"
Insert: "AND STORAGE DEPOTS, PERMITTING SHIPMENTS TO STORAGE DEPOTS"
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 16-3-230, 16-4-102, AND"

3. Title, line 8
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

4. Page 5, line 2
Following: " ; "
Strike: "and"

DO PASS

5. Page 5, line 4

Following: "years;"

Insert: "and (v) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage;"

Page 5, line 10

Following: "this section;"

Insert: "(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage;"

Remember: subsequent subsection

7. Page 5, following line 18

Insert: "Section 2. Section 16-3-230, MCA, is amended to read:
 "16-3-230. Out-of-state beer required to be shipped to wholesaler. All beer manufactured outside of the state of Montana and shipped into Montana shall be consigned to and shipped, either directly or via a licensed storage depot, to a licensed wholesaler and by him unloaded into his warehouse in Montana or subwarehouse in Montana. A brewer may sell only to wholesalers from a storage depot in Montana and shall maintain records of all beer, including the name or kind received, on hand, and sold, which records may at all times be inspected by any representative of the department. Said wholesaler shall distribute said beer from such warehouse or subwarehouse and shall keep records at his principal place of business of all beer, including the name or kind received, on hand, sold, and distributed. Said records may at all times be inspected by any member or representative of the department."

Section 3. Section 16-4-102, MCA, is amended to read:

"16-4-102. Right of brewers to maintain and operate storage depots -- annual licenses. It shall be lawful for any brewer duly licensed to manufacture beer in the state of Montana, upon the payment to the department of an annual license fee in addition to all other fees and taxes required to be paid by such brewer for each storage depot, to own, lease, maintain, and operate, in any city or town in the state of Montana, a building for use as a storage depot, equipped with refrigeration and cooling apparatus, for receiving, handling, and storing beer therein and distributing and selling beer therefrom as brewers are permitted to sell and distribute beer under the provisions of this code."

Section 4. Severability. If a part of this act is invalid, all parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. This act is effective July 1, 1983."

AND AS AMENDED
BE CONCURRED IN

JERRY MERCALP

Chairman.

STANDING COMMITTEE REPORT

MARCH 2

83

19

SPEAKER:

MR.

BUSINESS & INDUSTRY

We, your committee on

SENATE

144

having had under consideration Bill No.

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A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
RESTRICTION ALLOWING ONLY NATURAL PERSONS TO HOLD A LIQUOR
LICENSE TRANSFERRED BETWEEN QUOTA AREAS; AMENDING SECTION
16-4-204, MCA."

SENATE

144

Respectfully report as follows: That Bill No.

BE CONCURRED IN

XXXXXX
DO PASS

BEFORE THE COMMITTEE ON BUSINESS AND INDUSTRY
MONTANA HOUSE OF REPRESENTATIVES

Senate Bill 62
March 2, 1983

) Montana Beer & Wine Wholesalers
) In Support of Bill With Amendments

Mr. Chairman and committee members, I am Roger Tippy of Helena, lobbyist for the Montana Beer & Wine Wholesalers Association. I appear in support of an amended Senate Bill 62.

This bill began its passage through the Senate with some language that was rather detrimental to the structure of the beer and wine industries. The bill actually compounded some problems created in the 1981 session, when MCA section 16-4-401 was extensively revised.

The problems result from extending language made for tavern licenses to the wholesale and manufacturer licenses, where these terms don't fit. To require, for instance, an applicant for a wine distributor's license to be "without affiliation" to any winery is palpably unrealistic. Suffice it to say that the Senate committee voted to delete the problem language on page 4, lines 17-19 while the wholesalers and the Department of Revenue sought to negotiate satisfactory wording.

The wholesalers' objectives in these negotiations were to accept the Department's position that breweries and wineries should not be licensed as wholesalers in Montana while seeking an appropriate license category for a zone warehouse or storage facility such as the one a Missouri-based brewery placed in Billings several years ago. Our proposed amendment would accomplish this purpose by allowing an out-of-state brewery to have an in-state storage depot. Changes in MCA sections 16-3-230 and 16-4-102 are proposed to do this.

While the amendments are fairly lengthy, they are germane to the original purposes of the bill. They deal with an effect the introduced bill would have had, i.e., possibly curtailing the continued operation of a zone warehouse by an out-of-state brewery, by permitting that continued operation under a different license category. These amendments have been reviewed with Department officials; I understand that they are acceptable with the addition of a severability clause and an accelerated effective date, to July 1, 1983.

VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL

DATE _____

SPONSOR

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Bus. + Ind.

COMMITTEE

SB 144

3-2-83

			FOUR
Harold Helfferich	Helena, MT	Dept. of Revenue	✓
Michael J. Gandy	Helena, MT	Dept. of Revenue	✓
Tennage	Scrubs	Spencer	✓

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.