1	HOUSE BILL NO. 41	1
2	INTRODUCED BYMARKS	2
3		3
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO BEVISE AND CLARIFY	4
5	THE MONTANA ALCOHOLIC BEVERAGE CODE IN SUPPORT OF	5
6	RECODIFICATION; AMENDING SECTIONS 4-1-304, 4-2-102, 4-2-204,	6
7	4-4-105, 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303,	7
8	4-4-401, 4-4-403, 4-4-404, 4-5-105, 4-6-102, 4-6-205, AND	8
9	4-6-401; REPEALING SECTIONS 4-1-305, 4-1-307, 4-4-106, AND	9
10	4-6-206, B.C.K. 1947."	10
11		11
12	BF IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12
13	Section 1. Section 4-1-304, R.C.M. 1947, is amended to	13
14	read as follows:	14
15	"4-1-304. Liquordi*icioncaploreesacttobe	15
16	interested-in-liquor-salesunlavful-togivoorresoite	16
17	gift, -coppission - or - requireration Prohibited acts within	17
18	division. (1) No officer or employee of the liquor division.	18
19	including those engaged in the sale of liquor at the various	19
20	state liquor stores, shall may be directly or indirectly	20
21	interested or engaged in any other business or undertaking	21
22	dealing in liquor, whether as owner, part owner, partmer,	22
23	member of syndicate, shareholder, agent, or employee, and	23
24	whether for his own benefit or in a fiduciary capacity for	24
25	some other person.	25

1 (2) No member or employee of the division or any 2 employee of the state shall may solicit or receive directly 3 or indirectly any commission, remuneration, or gift 4 whatsoever from any person or corporation having sold, 5 selling, or offering liquor for sale to the state or 6 division in pursuance of pursuant to this code.

7 (3) No person selling or offering for sale to, or 8 purchasing liquor from, the state liquor division, shall may 9 either directly or indirectly offer to pay any commission, 10 profit, or remuneration, or make any gift to any member or 11 employee of the division, of to any employee of the state, 12 or to anyone on behalf of such member or employee.

13 (4) The prohibition contained in subsection (3) of
14 this section does not prohibit the division from receiving
15 samples of liquor for the purpose of chemical testing,
16 subject to the following limitations:

(a) Each manufacturer, distiller, compounder,
rectifier, importer, or wholesale distributor, or any other
person, firm, or corporation proposing to sell any
spirituous liquors liquor to the Bontana liquor division
shall submit, without cost to the division prior to the
original purchase, an analysis of each brand and may submit
a representative sample not exceeding twonty-five-{25} fluid
ounces of such merchandise to the board (division^a).

(b) It--shall-be-the-duty-of-the-division--when <u>When</u> a

INTRODUCED BILL

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brand of liquor has been accepted for testing by the
division, to the division shall forward the sample, unopened
and in its entirety, to a qualified chemical laboratory for
analysis.

5 (c) The division shall maintain written records of all 6 samples received; such The records shall show the brand 7 name, amount and from whom received, date received, the 8 laboratory or chemist to whom forwarded, the division's 9 action on the brand, and the person to whom delivered or 10 other final disposition of the sample.

11 (5) No liquor, wine, or other spiriteous alcoholic 12 beverage shall may be withdrawn from the regular warehouse 13 inventory or from the state liquor stores of the Montana 14 liquor division, for any purpose whatseever other than by 15 sale at the prevailing state retail prices, or for 16 destroying damaged or defective merchandise. The division shall maintain a written record including the type, brand, 17 18 and container size; number of bottles or other units; 19 signatures of witnessest, and method of destruction or other disposition of damaged or defective warehouse or state store 20 merchandise." 21

Section 2. Section 4-2-102, R.C.M. 1947, is amended to
read as follows:

24 "4-2-102. Containers to be sealed with official seal
25 — opening package on liquor store premises forbidden. No

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spirits or wine shall liquor may be sold to any purchasery
 except in a package, sealed with the official seal
 prescribed by this ast code, which package shall may not be
 opened on the premises of a state store."

5 Section 3. Section 4-2-204, R.C.M. 1947, is amended to
6 read as follows:

7 "4-2-204. Department to sell to licensees -- posted 8 price. The department is hereby authorized to may sell 9 through its stores all kinds of liquor, wine, and cordials kept in stock to licensees licensed under this code at the 10 11 posted price thereof in the store in which said the liquor 12 is sold. All sales shall be upon a cash basis. The posted price as--wood horein shall-means means the retail price of 13 14 such liquor as fixed and determined by the department of revenue and in addition thereto an excise and license tax as 15 provided in this ast provided code." 16

17 Section 4. Section 4-4-105, R.C.M. 1947, is amended to
18 read as follows:

19 "4-4-105. Special permits to sell beer <u>alcoholic</u>
20 <u>beverages</u> — application and issuance — fee. (1) (a) Any
21 association or corporation conducting a picnic, convention,
22 fair, civic or community enterprise, or sporting eventy
23 shall in the discretion of the liquor division be entitled
24 to a special permit to sell beer to the patrons of such
25 event to be consumed within the enclosure wherein the event

1 is held.

2 (b) The application of any such association or 3 corporation shall be presented ten-(10) days in advance and 4 shall describe the location of such enclosure wherein where 5 such event is to be held, the nature of such the event, and 6 the period when it is contemplated that the same event will 7 be held. Such The application shall be accompanied by the 8 amount of the permit fee hereinafter provided.

9 <u>(c)</u> The permit issued to such association or 10 corporation shall be is a special permit, but shall not 11 authorize the sale of beer except starting ene. (1) day in 12 advance of the regular period when events are being held 13 upon such grounds and during the period described in such 14 the application, and for one (1) day thereafter.

15 The pormit fee shall be at the rate of fifteen dellars (\$15) per day for each day beer is sold, or to be sold at these ovents lasting two (2) or more days, but in the ovent loss than thirty dellars (\$30), hereby fixed as the minimum fee for such permit.

20 (2) (a) $\frac{1}{10} \frac{1}{10} \frac{1}{10} \frac{1}{10} \frac{1}{10}$ post of a nationally chartered veterans⁴ 21 organization or $\frac{1}{100} \frac{1}{10} \frac{1}{100}$ of a recognized national 22 fraternal organization, not otherwise licensed under this 23 code, shall, in the discretion of the department, without 24 notice or hearing as provided in section 4-4-302, be 25 entitled to a special permit to sell beer or a special LC 0044/01

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permit to sell all alcoholic beverages at such post or
 lodge, to members and their guests only, to be consumed
 within the hall or building of such post or lodge.

(b) The application of such nationally chartered veterans' organization or lodge of a recognized national fraternal organization shall describe the location of the hall or building where the special permit shall will be used and the date it will be used. Such application shall be accompanied by a permit fee of ten dellars (\$10).

10 (c) The special permit issued shall be for a
11 twenty-four-(24)-hour 24-hour period only ending at 2 a.m.
12 only, and the department shall may not issue more than
13 twelve-(12) such permits to any such post or lodge during a
14 calendar year."

15 Section 5. Section 4-4-201, R.C.H. 1947, is amended to 16 read as follows:

17 "4-4-201. Issuance of retail beer licenses --- ligit on 18 number of beer <u>retail</u> licenses — wine license amendments — 19 retail license-fee off-premises consumption. (1) Except as otherwise provided by law, a license to sell beer at retail, 20 21 or beer and wine at retail pursuant-to-subsection (2), in 22 accordance with the provisions of this ast code and the 23 regulations rules of the department of --revenue, may be issued to any person, firm, or corporation who shall be is 24 25 approved by the department as a fit and proper person, firm,

1 or corporation to sell beert, provided, except that: 2 (a) the number of retail beer licenses that the 3 department may issue for premises situated within a incorporated cities and incorporated towns and within a 5 distance of five (5) miles from the corporate limits of such 6 cities and towns shall be determined on the basis of 7 population as shown by the most recent official United ß States census authorized by Congress, to wit as 9 follows:

10 (i) In incorporated towns of five-hundred (500)
11 inhabitants or less and within a distance of five (5) miles
12 from the corporate limits of such towns, not more than one
13 (1) retail beer license which shall may not be used in
14 conjunction with a retail liquor all-beverages license;

15 <u>(ii)</u> in incorporated cities or incorporated towns of nore than five hundred (500) inhabitants and not over two thousand (2,000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities or towns, one (4) beer license for each five hundred (500) inhabitants which caid beer license shall may not be used in conjunction with retail liques all-beverages licenses;

22 (iii) in incorporated cities of over two-thousand 23 (2,000) inhabitants and within a distance of five (5) miles 24 from the corporate limits of such cities, two (2) additional 25 retail beer licenses for the first two-thousand (2,000)

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inhabitants or major fraction thereof and one (+) additional
retail beer license for each additional two thousand (2,000)
inhabitants which shall may not be used in conjunction with
retail liquor all_beverages licenses.

(b) The the number of the inhabitants in such cities 5 and towns, exclusive of the number of inhabitants residing 6 7 within a distance of five--{5} miles from the corporate limits thereof, shall govern the number of retail been 8 licenses that may be issued for use within such cities and 9 10 towns and within a distance of five (5) miles from the corporate limits thereof +, providedy-that-whore If two (3) 11 12 or more incorporated municipalities are situated within a distance of five (5) miles from each other, the total number 13 of retail beer licenses that may be issued for use in both 14 of such municipalities and within a distance of five (5) 15 miles from their respective corporate limits, shall be 16 determined on the basis of the combined populations of both 17 18 of such municipalities and shall may not exceed the foregoing limitations. The said distance of five (5) miles 19 from the corporate limits of any incorporated city or 20 incorporated town shall be measured in a straight line from 21 the nearest entrance of the premises proposed for licensing 22 to the nearest corporate boundary of such city or town. 23

24 <u>(c) Petail retail</u> beer licenses of issue on the date
25 of the passage and approval of this act March 7, 1947, and

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which are in excess of the foregoing limitations shall be
 renewable, but no new licenses shall may be issued in
 violation of such limitations; provided, that

4 (d) such limitations shall do not prevent the issuance 5 of a nontransferable and nonassignable retail beer license 6 to any a post of a nationally chartered veterans⁴ 7 organization or any a lodge of a recognized mational 8 fraternal organization, if such veterans⁴ or fraternal 9 organization has been in existence for a period of five 10 f years or more prior to January 1, 1949-:

(e) the number of retail beer licenses that the 11 12 department may issue for use at premises situated outside of 13 any incorporated city or incorporated town and outside of 14 the area within a distance of 5 miles from the corporated 15 limits thereof or for use at premises situated within any 16 unincorporated town shall be as determined by the department 17 in the exercise of its sound discretion, except that no 18 retail beer license may be issued for any premises so 19 situated unless the department determines that the issuance 20 of such license is required by public convenience and 21 necessity. (2) The cities and incorporated towns may enact 22 23 ordinances defining certain areas in the cities and towns

24 where alcoholic beverages may or may not be sold. No

25 incorporated city or incorporated town may by ordinance

1 restrict the number of licenses that the department may 2 issue; provided that <u>However</u>, no retail beer license may be 3 issued by the department for any premises situated within 値 any zone of such city or town wherein where the sale of beer 5 or liquor is prohibited by ordinance, a certified copy of 6 which has been filed with the department. The department 7 shall have discretion to may deny the issuance of a retail beer or all-beverages license if it shall-determine 8 9 determines that the premises proposed for licensing are off 10 regular police beats and cannot be properly policed by local 11 authorities.

12 (b) -- The -- number -- of -- retail -- beer -- licenses -- that -- the 13 department-may-issue for use at promises-situated-outside-of 14 3BY~IRCOFPOFated-city-of~IRCOFPOFated-town--and--outcidg--of 15 the-area-within -a distance of -five-(5)-ailes-from the corporated-limits thereof, or for use at premises - situated 16 17 #ithin-any-unincorporated-town-shall-be-as-dotermined-by-the 18 provided, that no retail beer license shall be issued for 19 20 dny---premises---se---situated--unless--the---department---shall 21 determine that the issuance of such license is required 22 public-convenience and necessity. 23 $\frac{(2)}{(3)}$ A person holding a license to sell beer for 24 consumption on the premises at retail may apply to the

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department for an amendment to the license permitting the

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1 holder to sell wine as well as beer. The division may issue 2 such agendment if it finds, on a satisfactory showing by the 3 applicant, that the sale of wine for consumption on the £ premises would be supplementary to a restaurant or prepared 5 food prepared-food business. A person holding a 6 beer-and-wine license may sell wine for consumption on the 7 premises. He may buy wine only at retail from the 8 department. Nonretention of the beer license, for whatever 9 reason, shall mean automatic loss of the wine amendment 10 license.

11 (3)- The annual license for a license to cell wine
 remises, when issued as an annual to a beer only
 13 license shall be two hundred dollars (\$200).

14 (4) A retail license to sell beer in the original 15 packages for off-premise off-premises consumption only may 16 be issued to any person, firm, or corporation who shall be 17 is approved by the department as a fit and proper person. 18 firm, or corporation to sell beer and whose premises 19 proposed for licensing are operated as a bona fide grocery 20 store or a drugstore licensed as a pharmacy. The number of 21 such licenses that the department may issue shall is not be 22 limited by the provisions of subsection (1) of this section_T 23 but shall be determined by the department in the exercise of its sound discretion, and the department may in the exercise 24 25 of its sound discretion grant or deny any application for LC 0044/01

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1 any such license or suspend or revoke any such license for 2 cause. The annual license fee for a license to sell beer at 3 retail-for-off-presises consumption chall-be the same as for ſı. a-retail beer-license." Section 6. Section 4-4-202, R.C.M. 1947, is anended to 5 6 read as follows: 7 "4-4-202. All-beverage All-beverages license quota. 8 (1) Except as otherwise provided by law, a license to sell 9 liquor, beer, and wine at retail, an all-beverages license, 10 in accordance with the provisions of this code and the 11 regulations rules of the Montana department of revenue, may 12 be issued to any person who shall-be is approved by the department as a fit and proper person to sell such 13

14 beverages; provided, <u>except</u> that:

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15 -fa (1) the number of all-beverages licenses that the 16 department way issue for premises situated within 17 incorporated cities and incorporated towns and within a distance of five-(5) miles from the corporate limits of such 18 19 cities and towns shall be determined on the basis of population as shown by the most recent official United 20 21 States census authorized by Congress congress, to-wit as 22 follows:

<u>(a)</u> In <u>in</u> incorporated towns of <u>five-hundred-(500)</u>
 inhabitants or less and within a distance of <u>five-(5)</u> miles
 from the corporate limits of such towns, not more than two

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2 (b) in incorporated cities or incorporated towns of 3 more than five bundred (500) inhabitants and not over three 4 thousand--(3,000) inhabitants and within a distance of five 5 (5) miles from the corporate limits of such cities and 6 towns, three (3) retail licenses for the first one thousand 7 (1,000) inhabitants and one (1) retail license for each 8 additional one thousand (1,000) inhabitants;

9 <u>(c)</u> in incorporated cities of over three-thousand 10 (3,000) inhabitants and within a distance of five (5) miles 11 from the corporate limits thereof, five (5) retail licenses 12 for the first three-thousand (3,000) inhabitants and one (1) 13 retail license for each additional one thousand five hundred 14 (1,500) inhabitants.

(2) The number of the inhabitants in such cities and 15 towns, exclusive of the number of inhabitants residing 16 within a distance of five-...(5) miles from the corporate 17 limits thereof, shall govern the number of retail licenses 18 19 that may be issued for use within such cities and towns and within a distance of five (5) miles from the corporate 20 limits thereof +, provided, however, that where If two (2) or 21 more incorporated municipalities are situated within a 22 distance of five-{5} miles from each other, the total number 23 of retail licenses that may be issued for use in both of 24 such municipalities and within a distance of $five {5}$ miles 25

from their respective corporate limits, shall be determined 1 on the basis of the combined population of both of such 2 3 nunicipalities and shall may not exceed the foregoing limitations. Notwithstanding the preceding sentence, the é. 5 total population for determining the quota of a city may 6 include, with the city's population, the population residing 7 outside, but within five (5) miles of the city limits in a R case where the number of persons residing outside but within q five---(5) miles of the city exceeds the number of persons residing within the city. Such a determination may be made 10 only upon a special census taken by the department or its 11 12 agent at the expense of the applicant for a license under this section. The said distance of five (5) miles from the 13 corporate limits of any incorporated city or incorporated 14 15 town shall be measured in a straight line from the nearest 16 entrance of the premises proposed for licensing to the 17 nearest corporate boundary of such the city or town.

18 (3) Retail all-beverages licenses of issue on the date 19 of the passage and approval of this code March 7, 1947, and 20 which are in excess of the foregoing limitations shall be 21 renewable, but no new licenses shall may be issued in 22 violation of such limitationst, provided that such

23 (4) Such limitations shall do not prevent the issuance
24 of a nontransferable and nonassignable (as to ownership
25 only) retail license to any post of a nationally chartered

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veterans' organization or any lodge of a recognized national ŧ fraternal organization, if such veterans' or fraternal 2 organization has been in existence for a period of five (5)-З ħ years or more prior to January 1, 1949. No. incorporated gity-or-incorporated-town-may-by-ordinance-restrict-the 5 6 Bumber- of licenses-that-the-department-may--issue;--provided 7 that -- no---retail-licence-may--be-issued-by--the-department-for 8 ABY-PECRISOG-Situated -within-aby-some -- of ---- dity--of----town 9 10 certified-copy of which has been filed with the ... do partments. 11 The-department chall-have-discretion-to-desy-the-issuance-of 12 a--rotail--licopso--if--is-shall dotorping-that the propisos 13 proposed-for-lisensing-are--off--regular--police---boats--and 14 cannot be properly policed by local-authorities.

15 (b) (5) the The number of retail all-beverages licenses 16 that the department may issue for use at premises situated 17 outside of any incorporated city or incorporated town and outside of the area within a distance of five-(5) miles from 18 19 the corporate limits thereof, shall be may not be more than one (1) license for each seven-hundred fifty-{750} 20 population of the county, after excluding the population of 21 22 incorporated cities and incorporated towns in such county." 23 Section 7. Section 4-4-301, R.C.M. 1947, is amended to 24 read as follows:

25 "4-4-301. Application for <u>all-beverages</u> license —

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penalty for false statements. (1) Prior to the issuance of an all-beverages license as berein provided in 4-4-202, the applicant shall file with the Montana department of revenue an application in writing, signed by the applicanty and containing such information and statements relative to the applicant and the premises where the alcoholic beverage is to be soldy as may be required by the department.

(2) The application shall be verified by the affidavit 8 9 of the person making the same before a person authorized to administer oaths. If any false statement is made in any 10 part of said the application, the applicanty or applicantsy 11 shall be deemed are quilty of a misdemeanor, and upon 12 conviction thereof the license, if issued, shall be revoked 13 and the applicant, or applicants, subjected to the penalties 14 provided by law." 15

Section 8. Section 4-4-302, R.C.N. 1947, is amended to
read as follows:

"4-4-302. Notice of application - publication --18 19 protest. (1) When an application has been filed with the Montana department of revenue for a license to sell 20 alcoholic beverages at retail, or to transfer such license, 21 22 the department shall promptly publish in a newspaper of general circulation in the city, town, or county from whence 23 such which the application shall-come comes, a notice that 29 such applicant has made application for such license, and 25

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that protests against the issuance of a license to the 1 applicant will be heard at a time and place stated in the 2 notice, which shall be in the city of Helena, Montana. 3 Notice of application for a new license shall be published 4 once a week for four-{4} consecutive weeks. Notice of 5 application for transfer of a license shall be published 6 once a week for two-{2} consecutive weeks. Notice may be 7 substantially in the following form: 8 NOTICE OF APPLICATION FOR RETAIL 9 10 ALL-BEVERAGES LICENSE 11 Notice is hereby given that on the day of, 19... one (name of applicant) filed an application for a 12 retail all-beverages license with the Montana department of 13 revenue, to be used at (describe location of premises where 14 lisense-is beverages are to be sold), and protests, if any 15 there be, against the issuance of such license will be heard 16 at the hour of ---- H, on the day of, 19..., at the 17 office of the Contana department of revenue, in Helena, 18 19 Montana.

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 Dated
 Signed

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 ADMINISTRATOR

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 (2)
 No license shall may be issued until on or after

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 the date set in the notice for hearing protests. Nor shall

24 <u>may</u> a license under this code be issued if the said--Montana 25 department of revenue shall finds from the evidence at

said the hearing that the welfare of the people residing in 1 the vicinity of the place for which such license is desired 2 3 will be adversely and seriously affected, or that the purposes of this code will not be carried out by the ίĽ. 5 issuance of such license. Each applicant shall, at the time 6 of filing his application, pay to the **Hontana** department of 7 revenue, an amount sufficient to cover the costs of 8 publishing said the notice."

9 Section 9. Section 4-4-303, R.C.M. 1947, is amended to
10 read as follows:

"4-4-303, Investigation of application, Upon receipt 11 12 of a completed application for a license under this code. accompanied by the necessary license fee and bond, the 13 14 15 thereafter, cause to be-made make a thorough investigation 16 of all matters pertaining theretor and shall determine 17 whether such applicant is qualified to receive a license and his premises are suitable for the carrying on of the 18 19 business, and whether the requirements of this code and the 20 rules and regulations promulgated by the department are met 21 and complied with." 22 Section 10. Section 4-4-401, R.C.M. 1947, is amended

23 to read as follows:

24 "4-4-401. Fees for licenses ----expiration--dates----

25 regulation-by-cities and towas. (1) (a) Each beer licensee,

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1	<pre>referre based-upon the population of the oity or -town and</pre>
2	saidcityortownshallfile-acortified-copy-of-said
3	ordinarge-with-the-Montana-department-of-revenuer
4	<u>(c)</u> This code shall not be construed or interpreted so
5	as to repeal, amend, modify, change, or alter any provisions
6	of this code which require beer manufactured outside of $\ \$ the
7	state of Montana and shipped into Montana to be consigned to
8	and shipped to a licensed wholesaler and by him unloaded
9	into his warehouse or subwarehouse in Montana.
10	(2) The permit fee under 4-4-105(1) is computed at the
11	rate of \$15 a day for each day beer is sold at those events
12	lasting 2 or more days but in no case be less than \$30.
13	(3) The permit fee under 4-4-105(2) is \$10 for the
14	sale of beer only or \$20 for the sale of all alcoholic
15	beverages.
16	(4) Passenger carrier licenses shall be issued upon
17	payment by the applicant of an annual license fee in the sum
18	<u>of \$300.</u>
19	<u>(5) The annual license fee for a license to sell wine</u>
20	on the premises, when issued as an amendment to a beer-only
21	license, is \$200.
22	(6) Each licensee licensed under the guotas of 4-4-202
23	<u>shall pay an annual license fee as follows:</u>
24	<u>(a) except as hereinafter provided, for each license</u>
25	outside_of_incorporated_cities_and_incorporated_towns_or_in

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1	incorporated cities and incorporated towns with a population
2	<u>of less than 2,000, \$400;</u>
3	(b) except as hereinafter provided, for each license
4	in incorporated cities with a population of more than 2,000
5	and less than 5,000, \$300; or within a distance of 5 miles
6	thereof, measured in a straight line from the nearest
7	entrance of the premises to be licensed to the nearest
8	boundary of such city, \$500;
9	(c) except as hereinafter provided, for each license
10	in incorporated cities with a population of more than 5,000
11	and less than 10,000 or within a distance of 5 miles
12	thereof, measured in a straight line from the nearest
13	<u>entrance of the premises to be licensed to the nearest</u>
14	boundary of such city, \$650;
15	(d) for each license in incorporated cities with a
16	population of 10,000 or more, or within a distance of 5
17	miles thereof, measured in a straight line from the mearest
18	<u>entrance of the premises to be licensed to the nearest</u>
19	boundary of such city, \$800:
20	(e) the distance of 5 miles from the corporate limits
21	of any incorporated cities and incorporated towns is
22	measured in a straight line from the nearest entrance of the
23	premises to be licensed to the nearest boundary of such city
24	or town; and where the premises of the applicant to be
25	licensed are situated within 5 miles of the corporate

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1	boundaries of two or more incorporated cities or
2	incorporated towns of different populations, the license fee
3	chargeable by the larger incorporated city or incorporated
4	town applies and shall be paid by the applicant. When the
5	premises of the applicant to be licensed are situated within
6	an incorporated town or incorporated city and any portion of
7	the incorporated town or incorporated city is without a
8	5-mile_limit, the license fee chargeable by the smaller
9	incorporated town or incorporated city applies and shall be
10	paid by the applicant.
11	(f) an applicant for the issuance of an original
12	license to be located in areas described in paragraph (d) of
13	<u>this subsection shall pay a one-time original license fee of</u>
14	\$20,000 for any such license issued, The one-time license
15	fee of \$20,000 shall not apply to any transfer or renewal of
16	a license duly issued prior to July 1, 1974. All licenses,
17	however, are subject to the annual reneval fee of \$800.
18	(7) The license fees herein provided for are exclusive
19	<u>of and in addition to other license fees chargeable in</u>
20	Montana for the sale of liquor, beer, and walt beverages."
21	Section 11. Section 4-4-403, R.C.M. 1947, is amended
22	to read as follows:
23	"4-4-403. License fee-for-retail sale of liquor within
24	andwithoutsiticsand-towns-of-designated-populations
25	consus <u>Census</u> of population. Each-licensee-licensed-under

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1	thequotasofsection-4-4-202-shall-pay-an-aunual-lisense
2	fee-as-follows+
3	{a}Except-ac-hereinafter-provided,-foreachlice ase
4	outsile-of-incorporated-sitios-and-incorporated-townsy-or-in
5	incorporated-sities-and-incorporated-towns-with-a-population
6	oflessthan-twothousand{2y000}y-four-hundred-dollars
7	{\$400}-per-annum;
8	{b}Except-is hereinafter-provided, foreachlicense
9	in-rincorporatedciticswith-a-population-of-more-than-two
10	thousand-{2,900}_and-less_than-five-thousand-{5,000},three
11	hundred-{\$300.09}-dollars-por-annum; or-within-a-distanso-of
12	five-{5}-miles-thereofy-measured in a straight-line from-the
13	nearest-entrance-of-the-premises-tobe-lisensed-te-the
14	nearest-boundary-of-such-city,-five-hundroddollars(\$500}
15	PCT-QRRUB †
16	{C}Sxceptashereinafter-provided, for-cach-ligense
17	in-incorporated-citics-with-a-population-of-morethanfive
18	thousand{5,000}andloss-than-ten-thousand-{10,000},-or
19	within a distance of five (5) miles thereafy zeasured - in- a
20	straight—linefrom-the-n e arcst-entranse-of-the-premises-to
21	be-licensed-tothenearestboundaryofsuchsitysix
22	hundred-fifty-dollars-{\$650}-per-annu∎;
23	{} Foreachlicenseinincorporated citics-with-a
24	population-of-ton-thousand-(10,000)-ormore,orvithina
25	distanceof-five-(5)-miles-thereofy-measured-im-a-straight

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1	line_fromthenearest-catranse_ofthepremisestobe
2	licensed-to-the-nearest-boundary-of-such-sityy-eight-hundred
3	dollars-(\$800)-per-annum;
4	(e)Foreachfailway-system-in-the-state-of-Montana,
5	three-hundred-(\$300.00)-dollars-per-annum;
6	{f}The_distance_of_five_{5}_wiles_from_the corporat e
7	limitsofabyincorporatedcities-abd-incorporated-towns
8	shall-be-measuredinastraightlinefromthenearest
9	entrance ofthepremisestobelidensod-to-the-nearest
10	boundary-of-such-city-or-town+-and-where-the-premises-of-the
11	applicant-to-bo-liconcod-are-cituated-within-five-(5)#ilec
12	ofthe-corporate boundaries-of-two-{2}-or-more-incorporated
13	citics-or-incorporated-towns-ofdifferentpopulationsthe
14	licenco
15	incorporatod town-shall-apply-and-be-paid-by-theapplicant;
16	provided,however,that-when-the-promises-of-the-applicant
17	to-be-ligenged-are-situated-within-an-incorporatedtownor
18	incorporated
19	or-incorporated-city-be-without-saidfive{5}#ileli#it
20	themthe-licence-fee-chargeable-by-the-smaller-incorporated
21	town-or-incorporated-city-shall-apply-and-bepaidbysaid
22	applicant,
23	<u>he applicant for the issuance of an original licence to</u>
24	be-located-inareasdescribedin-subsection-{d}-of-this
25	sestion-shall-pay a-one-time-original-licenso-fee-oftwenty

-24-

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thousand-dollars (\$20,000) for any such license issued. The said-one time-license-fee-of-twenty-thousand (dollars (\$20,000)--shall-not-apply-to any transfer or-renewal-of-a license-duly-issued-prior-to-July-1, 1974, All-licenses, however,-shall-be subject-to-the annual-renewal-fee-of-eight hundred-dollars (\$800).

7 The ligense fees herein previded for are exclusive of and in addition to other lisense fees whargeable in the state-of. Nontana-for the sale of ligeory beer and malt beverages.

11 The census taken under the direction of Gengress 12 congress of---the-United-States-in-the year mineteen-hundred 13 and-thisty-and-overy-ten-years-thereafter, shall be the 14 basis upon which the respective populations of said the 15 sunicipalities shall be detersined, unless a direct enumeration of the inhabitants thereof be is made by the 16 17 state or municipal corporation, in which case such later 18 direct enumeration shall constitute such basis, provided, 19 however, that no No census hereafter taken shall may be such 20 basis until it shall-have been is published under the 21 authority under which the same shall be is taken, and then 22 its effect shall be prospective only from the date of such 23 publication be-prospective-only-and-provided, further, that 24 none-of-the-provisions-of--this-act--shall-be--deemed--to 25 operate retroactively,"

Section 12. Section 4-4-404, R.C.M. 1947, is amended
 to read as follows:

3 "4-4-404. Fee for and expiration of licenses. а Effective Each July 1, 1944, and at the case date of each 5 year-thereafter, the Montana department of revenue shall issue licenses to brewers, wholesalers, or retailers or for 6 7 the retail sale of alcoholic beverages liquer on an annual 8 basis, and at such fees as are prescribed by law, and such 9 licenses shall expire at midnight of June 30th 30 of the 10 succeeding year. The department shall notify each applicant for an original license or renewal that he should inform 11 12 himself of applicable provisions of federal law which may 13 require a permit from a federal agency." 14 Section 13. Section 4-5-105, R.C.M. 1947, is amended 15 to read as follows:

16 "4-5-105. Fee to be charged. The county clerk and 17 recorders shall charge and collect a fee of one-dollar and 18 fifty-coats (\$1.50) from the applicant at the time the 19 application is prepared; and One-dollar (\$1) thereof shall 20 21 with the application and shall be used to defray the cost of 22 administering and executing the provisions of this code 23 chapter. Any surplus shall revert to the general fund of 24 the -- state of Montana. The remaining fifty-cents-(\$.50) 50 25 cents shall be paid into the general fund of the county to

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1 defray the county's costs in administering this program."

2 Section 14. Section 4-6-102, R.C.M. 1947, is amended
3 to read as follows:

"4-6-102. Sale of liquor not purchased from state 4 5 store forbidden -- penalty. It shall-be is unlawful for any licensee to sell or keep for sale and/or have on his 6 7 premises for any purpose whatever r any liquor except that 8 purchased from the state liquor store, and any licensee found in possession of τ or selling and keeping for sale τ any 9 10 liquor which was not purchased from a state liquor store, shall, upon conviction, be fined punished by a fine of not 11 less than five-hundred-dollars-(\$500)-nor or more than 12 13 fifteen hundred dellars (\$1,500), or be punished by 14 imprisonment for not less than three-{3} months nor more 15 than one-{1} year, or by both such fine and imprisonment, 16 and if the department shall be is satisfied that any such 17 liquor was knowingly sold or kept for sale within the licensed premises by such the licensee, or by his agents, 18 19 servants, or employees, it-shall be mandatory that said the 20 department shall immediately revoke the license of said 21 licensee."

22 Section 15. Section 4-6-205, R.C.M. 1947, is amended
23 to read as follows:

24 "4-6-205. Unlawful alcoholic beverage -- seizure -25 forfeiture. Any investigator or peace officer who finds an

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alcoholic beverage, which he has reasonable cause to believe 1 is had or kept by any person in violation of the provisions 2 of this code- may forthwith seize and remove the same and 3 the packages in which the alcoholic beverage is kept, and 4 5 upon conviction of the person for a violation of any provision of this-section 4-3-102, the alcoholic beverage 6 and all packages containing the same shall, in addition to 7 8 any other penalty prescribed by this code, ipso facto be 9 forfeited to the state of Montana." Section 16. Section 4-6-401, R.C.M. 1947, is amended 10 11 to read as follows: "4-6-401. Premises where liquor illegally sold public 12 nuisance. Any room, house, building, boat, vehicle, 13 structure or place where alcoholic beverages are knowingly 14 manufactured, sold, or bartered, in violation of this code 15 or section 94-8-107 and all property knowingly kept and used 16 in maintaining the same is hereby declared to be a public 17 nuisance, and any person who maintains such a nuisance shall 18 be guilty of a misdemeanor, and upon conviction thereof 19 20 shall be fined not less than one-hundred dollars (\$100-00), nor or more than five-hundred dollars (\$500) and by 21 imprisonment be imprisoned not less than thirty 30 days, mor 22

- 23 or more than six 6 months."
- 24 Section 17. Repealer. Sections 4-1-305, 4-1-307,
- 25 4-4-106, and 4-6-206, R.C.M. 1947, are repealed.

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> 1977 Legislature Code Commissioner Bill - Summary

House Bill No. 41

TO REVISE AND CLARIFY LAWS RELATING TO THE ALCOHOLIC BEVERAGE CODE.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 4-1-304 essentially covers all the conflictof-interest areas for liquor division employees which the next section, 4-1-305, addresses. The amendment borrows 4-1-305's language specifically including the store employees and puts it in 4-1-304; the latter section is then repealed.

Section 2. <u>4-2-102</u>. Substitute the word "liquor" for "spirits".

Section 3. 4-2-204. Add words "and license" after "excise" to clarify that price of liquor includes both taxes. When section was enacted in 1937 there was no license tax.

Section 4. <u>4-4-105</u>. Insert "Alcoholic Beverages" in catchline so it may be combined with 4-4-106 by inserting in 4-4-105 (2) the words, "or a special permit to sell all alcoholic beverages". Fees for each permit are transferred to 4-4-401. Repeal 4-4-106.

Section 5. 4-4-201. Substitute "all-beverages license" for "liquor license". Substitute "March 7, 1947," for "the date of the passage and approval of this act". Move to here from 4-4-401 and 4-4-202 the authority of cities to enact ordinances banning sales of alcoholic beverages in certain zones. Transfer (3) and part of (4) on fees to 4-4-401.

Section 6. <u>4-4-202</u>. Substitute "March 7, 1947" for "the date of the passage and approval of this code" to correct an error in the 1975 recodification. Delete language concerning ordinances added to 4-4-201.



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Section 7. <u>4-4-301</u>. Insert "all beverages" in catchline and in first sentence substitute "in 4-4-201" for "herein" to indicate that the section deals only with an all-beverages license.

Section 8. <u>4-4-302</u>. In notice example, substitute "beverages are" for "license is" to indicate the applicant must describe the premises where beverages are to be sold.

Section 9. 4-4-303. Delete "and bond" since none is required.

Section 10. 4-4-401. Rearrange so that all license fees due under code appear in this section. Bring in the wine amendment and grocery license fees from 4-4-201 (see section 7), delete June 30 expiration date and amend this provision into 4-4-404 for beer licenses (see section 12). Delete the ordinance provisions which were consolidated in 4-4-201, bring in the special permit fees from 4-4-105 and 4-4-106 (see section 5), bring in passenger carrier license fee from 4-4-109(drop the latter reference in recodification).

Section 11. <u>4-4-403</u>. Delete all fee references, moved to 4-4-401, so that only the census provision remains. Delete reference to a census "every ten years thereafter" since congress has just put census-taking on a five-year cycle.

Section 12. 4-4-404. Delete the word "liquor" so that section applies to beer also. Renewal provision in 4-4-401may be deleted by adding "and to brewers and wholesalers" to this section.

Section 13. 4-5-105. Substitute the word "Chapter" for the word "code".

Section 14. 4-6-102. Supply the verb "be punished".

Section 15. <u>4-6-205</u>. Insert "4-3-102" for "this section" to clarify that the section is referring to a violation of the state seal requirements. "This section" contains no prohibitions.

Section 16. <u>4-6-401</u>. Correct grammar by inserting "be imprisoned" for "by imprisonment".

Section 17. Repealers.

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<u>4-1-305</u>. Repealed by consolidation with preceding section; <u>4-1-307</u> repealed as superfluous material; <u>4-4-106</u> repealed by consolidation with preceding section; <u>4-6-206</u> repealed by consolidation with preceding section.

1	HOUSE BILL NO. 41
2	INTRODUCED BY MARKS
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIPY
5	THE MONTAWA ALCOHOLIC BEVEBAGE CODE IN SUPPORT OF
6	RECODIFICATION; AMENDING SECTIONS 4-1-304, 4-2-102, 4-2-204,
7	4-4-105, 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303,
8	4-4-401, 4-4-403, 4-4-404, 4-5-105, 4-6-102, 4-6-205, AND
9	4-6-401; REPEALING SECTIONS 4-1-305, 4-1-307, 4-4-106, AND
10	4-6-206, R.C.N. 1947."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 4-1-304, R.C.H. 1947, is amended to
14 read as follows:

15 "4-1-304. Liquor---division---employees---net---to--be 16 interested in-ligger-sales----uslavful-to--give--or--reseive 17 gift, someicoion or remuneration Prohibited acts within 18 division. (1) No officer or employee of the liquor division, 19 including those engaged in the sale of liquor at the various state liquor stores, shall may be directly or indirectly 20 interested or engaged in any other business or undertaking 21 dealing in liquor, whether as owner, part owner, partner, 22 member of syndicate, shareholder, agent, or employee, and 23 whether for his own benefit or in a fiduciary capacity for 24 25 some other person.

(2) No member or employee of the division or any
employee of the state shall may solicit or receive directly
or indirectly any commission, remuneration, or gift
whatsoever from any person or corporation having sold,
selling, or offering liquor for sale to the state or
division in pursuance of pursuant to this code.

7 (3) No person selling or offering for sale toy or
8 purchasing liquor from, the state liquor division, shall may
9 either directly or indirectly offer to pay any commission,
10 profit, or remuneration, or make any gift to any member or
11 employee of the division, or to any employee of the state,
12 or to anyone on behalf of such member or employee.

13 (4) The prohibition contained in subsection (3) of
14 this section does not prohibit the division from receiving
15 samples of liquor for the purpose of chemical testing,
16 subject to the following limitations:

17 (a) Each manufacturer, distiller, compounder. 18 rectifier, importer, or wholesale distributor, or any other person, firm, or corporation proposing to sell any 19 spipituous liquors liquor to the Montana liquor division 20 shall submit, without cost to the division pricr to the 21 22 original purchase, an analysis of each brand and may submit 23 a representative sample not exceeding twenty-five-{25} fluid ounces of such merchandise to the beard {division -}. 24

25 (b) It-shall-be-the-duty-of-the-division-when when a

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brand of liquor has been accepted for testing by the
 division, to the division shall forward the sample, unopened
 and in its entirety, to a gualified chemical laboratory for
 analysis.

5 (c) The division shall maintain written records of all 6 samples received; such The records shall show the brand 7 name, amount and from whom received, date received, the 8 laboratory or chemist to whom forwarded, the division's 9 action on the brand, and the person to whom delivered or 10 other final disposition of the sample.

11 (5) No liquor, wine, or other spirituous alcoholic 12 beverage shall may be withdrawn from the regular warehouse inventory or from the state liquor stores of the Montana 13 14 liquor division, for any purpose whatseever other than by 15 sale at the prevailing state retail prices, or for destroying damaged or defective merchandise. The division 16 17 shall maintain a written record including the type, brand, and container size; number of bottles or other units; 18 19 signatures of witnesses, and method of destruction or other 20 disposition of damaged or defective warehouse or state store 21 merchandise."

Section 2. Section 4-2-102, R.C.M. 1947, is amended to
read as follows:

24 "4-2-102. Containers to be sealed with official seal
25 -- opening package on liquor store premises forbidden. No

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spirits or wine shall liquor may be sold to any purchaser,
 except in a package, sealed with the official seal
 prescribed by this act code, which package shall may not be
 opened on the premises of a state store."

5 Section 3. Section 4-2-204, R.C.M. 1947, is amended to 6 read as follows:

7 "4-2-204. Department to sell to licensees -- posted price. The department is-hereby-authorized to may sell 8 through its stores all kinds of liquor, wine, and cordials 9 kept in stock to licensees licensed under this code at the 10 posted price thereof in the store in which said the liquor 11 is sold. All sales shall be upon a cash basis. The posted 12 price as used berein shall mean means the retail price of 13 such liquor as fixed and determined by the department of 14 revenue and in addition thereto an excise and license tax as 15 16 provided in this act-provided code."

Section 4. Section 4-4-105, B.C.H. 1947, is amended to
read as follows:

19 *4-4-105. Special permits to sell beer <u>alcoholic</u> 20 <u>beverages</u> — application and issuance — fee. (1) <u>(a)</u> Any 21 association or corporation conducting a picnic, convention, 22 fair, civic or community enterprise, or sporting eventy 23 shall in the discretion of the liquor division be entitled 24 to a special permit to sell beer to the patrons of such 25 event to be consumed within the enclosure wherein the event

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1 is held.

2 (b) The application of any such association or 3 corporation shall be presented ten (10) days in advance and 4 shall describe the location of such enclosure wherein where 5 such event is to be held, the nature of such the event, and the period when it is contemplated that the same event will 6 7 be held, Such The application shall be accompanied by the amount of the permit fee heroinafter provided. 8

(c) The permit issued to such association or 9 10 corporation shall be is a special permit, but shall not authorize the sale of beer except starting one---(1) day in 11 12 advance of the regular period when events are being held upon such grounds and during the period described in such 13 14 the application, and for one-(1) day thereafter.

15 The -- permit-fee-shall-be-at-the-rate-of-fifteen-dellars (\$15)-per-day-for-cach-day-boor-is-coldy-cr-to-mbo--cold--at 16 17 those--events--lasting-two-(2)-or-moro-daysy-but-in-no-event 18 less-than-thirty-dollars-(\$30),-hereby-fixed-as-the--sinibus 19 fee-for-such-permit.

20 (2) (a) Any A post of a mationally chartered veterans' 21 organization or any a lodge of a recognized national 22 fraternal organization, not otherwise licensed under this 23 code, shall, in the discretion of the department, without 24 notice or hearing as provided in soction 4-4-302, be 25 entitled to a special permit to sell beer <u>or a special</u>

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permit to sell all alcoholic beverages at such post or lodge, to members and their quests only, to be consumed 2 within the hall or building of such post or lodge.

(b) The application of such nationally chartered h veterans' organization or lodge of a recognized national 5 fraternal organization shall describe the location of the 6 7 hall or building where the special permit shall will be used and the date it will be used. Such application shall be 8 q accompanied by a permit for of ten dollars (\$10).

10 (c) The special permit issued shall be for a 11 twonty-four-(24) hour 24-hour period only ending at 2 a.m. only, and the department shall may not issue more than 12 13 twolve (12) such permits to any such post or lodge during a 14 calendar year."

Section 5. Section 4-4-201, R.C.H. 1947, is amended to 15 16 read as follows:

17 "4-4-201. Issuance of retail beer licenses -- limit on number of beer retail licenses -- wine license amendments --18 19 retail-license for off-premises consumption. (1) Except as otherwise provided by law, a license to sell beer at retaily 20 or beer and wine at retail pursuant-to-subsection-(2), in 21 22 accordance with the provisions of this act code and the regulations rules of the department of revenue, may be 23 24 issued to any person, firm, or corporation who shall-he is 25 approved by the department as a fit and proper person, firm,

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    or corporation to sell beert, provided, except that:
2
         (a) the number of retail beer licenses that the
3
    department may issue for premises situated within
    incorporated cities and incorporated towns and within a
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    distance of five (5) miles from the corporate limits of such
    cities and towns shall be determined on the basis of
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    population as shown by the most recent official United
8
    States census authorized by Gongross congress. to wit as
9
    follows:
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<u>(i)</u> In <u>in</u> incorporated towns of five-hundred (500)
inhabitants or less and within a distance of five (5) miles
from the corporate limits of such towns, not more than one
(4) retail beer license which chall may not be used in
conjunction with a retail liquer all-beverages license;

15 <u>(ii)</u> in incorporated cities or incorporated towns of 16 more than five hundred (500) inhabitants and not over two 17 thousand (2,000) inhabitants and within a distance of five 18 (5) miles from the corporate limits of such cities or towns, 19 one (4) beer license for each five hundred (500) inhabitants 20 which said beer license shall may not be used in conjunction 21 with retail liguer all-beverages licenses;

22 (iii) in incorporated cities of over two-thousand 23 (2,000) inhabitants and within a distance of fire-(5) miles 24 from the corporate limits of such cities, two (2) additional 25 retail beer licenses for the first two-thousand--(2_{μ} 000)

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1 inhabitants or major fraction thereof and one (+) additional 2 retail beer license for each additional two theusand (2,000)3 inhabitants which shall may not be used in conjunction with 4 retail liquor all-beverages licenses.

5 (b) The the number of the inhabitants in such cities and towns. exclusive of the number of inhabitants residing 6 7 within a distance of five-(5) miles from the corporate 8 limits thereof, shall govern the number of retail beer licenses that may be issued for use within such cities and 9 10 towns and within a distance of $\frac{4}{100}$ miles from the corporate limits thereof , provided, that whose If two (3) 11 or more incorporated municipalities are situated within a 12 13 distance of five (5) miles from each other, the total number 14 of retail beer licenses that may be issued for use in both of such gunicipalities and within a distance of five (5) 15 miles from their respective corporate limits, shall be 16 determined on the basis of the combined populations of both 17 18 of such municipalities and shall may not exceed the foregoing limitations. The said distance of five-(5) miles 19 from the corporate limits of any incorporated city or 20 incorporated town shall be measured in a straight line from 21 22 the nearest entrance of the premises proposed for licensing 23 to the nearest corporate boundary of such city or town. (c) Retail retail beer licenses of issue on the date 24 of the passage and approval of this ast March 7, 1947, and 25

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which are in excess of the foregoing limitations shall be
 renewable, but no new licenses shall may be issued in
 violation of such limitations: provided, that

4 <u>(d)</u> such limitations chall <u>do</u> not prevent the issuance 5 of a nontransferable and nonassignable retail beer license 6 to any <u>a</u> post of a nationally chartered veterans' 7 organization or any <u>a</u> lodge of a recognized national 8 fraternal organization, if such veterans' or fraternal 9 organization has been in existence for a period of five 10 (5) years or more prior to January 1, 1949, i

11 (e) the number of retail beer licenses that the 12 department may issue for use at premises situated outside of 13 any incorporated city or incorporated town and outside of 14 the area within a distance of 5 miles from the corporated 15 limits thereof or for use at premises situated within any 16 unincorporated town shall be as determined by the department 17 in the exercise of its sound discretion, except that no 18 retail beer license may be issued for any premises so 19 situated unless the department determines that the issuance 20 of such license is required by public convenience and 21 necessity.

22 <u>(2) The cities and incorporated towns may enact</u> 23 <u>ordinances defining certain areas in the cities and towns</u> 24 <u>where alcoholic bewerages may or may not be sold.</u> No 25 incorporated city or incorporated town may by ordinance

1 restrict the number of licenses that the department may issue+. provided-that However, no retail beer license may be 2 3 issued by the department for any premises situated within any zone of such city or town wherein where the sale of beer í. 5 or liquor is prohibited by ordinance, a certified copy of б which has been filed with the department. The department 7 shall have discretion to may deny the issuance of a retail R beer or all-beverages license if it shall-determine determines that the premises proposed for licensing are off 9 10 regular police beats and cannot be properly policed by local 11 authorities.

12 (b) --- The--- Rumber--- of -- retail--- beer--- licenses--- the--- the 13 department-may-issue-fer-use-at-premises-situated-eutside-of any-incorporated-city-or-incorporated-town--and--outside--of 14 15 16 Gorporated limits thereof, or for use at -- premises -- situated within-any-unincorporated town-shall-be-ar-determined-by-the 17 18 departseest----in----the---exercice---ete---gound---dicoretion+ 19 providedy-that-no-retail-beer-license-shall-be--issued--for any---premises--so--situated --unless--the--department--shall 20 detersine that the isstance of such license is required by 21 22 public-convenience and necessity.

23 (2)(3) A person holding a license to sell beer for 24 consumption on the premises at retail may apply to the 25 department for an amendment to the license permitting the

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1 holder to sell wine as well as beer. The division may issue such amendment if it finds, on a satisfactory showing by the 2 3 applicant, that the sale of wine for consumption on the ŧ premises would be supplementary to a restaurant or prepared 5 food prepared-food business. A person holding a beer-and-wine license may sell wine for consumption on the 6 7 premises. He may buy wine only at retail from the R department. Nonretention of the beer license, for whatever 9 reason, shall mean automatic loss of the wine amendment 10 license.

11 (3) -- The -- annual ligence for for -a -ligence to sell wine
 12 on the premises, when issued as an amendment to a beer -- only
 13 ligence -shall -be two-hundred dollars - (\$200) -

14 (4) & retail license to sell beer in the criginal packages for off-presise off-presises consumption only may 15 16 be issued to any person, firm, or corporation who shall be 17 is approved by the department as a fit and proper person, 18 firm, or corporation to sell beer and whose premises 19 proposed for licensing are operated as a bona fide grocery 20 store or a drugstore licensed as a pharmacy. The number of 21 such licenses that the department may issue shall is not be 22 limited by the provisions of subsection (1) of this section_{τ} 23 but shall be determined by the department in the exercise of 24 its sound discretion, and the department may in the exercise 25 of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for
 cause. The annual license fee for a license to cell beer at
 retail for off-premises denoumption shall be the same as for
 a-retail-beer-license."

5 Section 6. Section 4-4-202, R.C.M. 1947, is amended to 6 read as follows:

"4-4-202, Hil-beverage All-beverages license quota. 7 (4) Except as otherwise provided by law, a license to sell 8 9 liquor, beer, and wine at retail, an all-beverages license, in accordance with the provisions of this code and the 10 regulations rules of the #ontana department of-roveaue, may 11 12 be issued to any person who shall be is approved by the department as a fit and proper person to sell such 13 14 beverages;, provided, except that:

15 (a) (1) the number of all-beverages licenses that the 16 department may issue for premises situated within 17 incorporated cities and incorporated towns and within a 18 distance of five-{5} miles from the corporate limits of such 19 cities and towns shall be determined on the basis of population as shown by the most recent official United 20 21 States census authorized by Gongress congress, to-wit as 22 follows:

<u>(a)</u> In in incorporated towns of five --hundred --{500}
 inhabitants or less and within a distance of five -{5} miles
 from the corporate limits of such towns, not more than two

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1 (2) retail licenses;

2 (b) in incorporated cities or incorporated towns of more than five-hundred (500) inhabitants and not over three thousand -- (3,000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities and towns, three (3) retail licenses for the first one-thousand (1,000) inhabitants and one (4) retail license for each additional one-thousand (1,000) inhabitants;

9 (c) in incorporated cities of over three-thousand
10 (3,000) inhabitants and within a distance of five-(5) miles
11 from the corporate limits thereof, five (5) retail licenses
12 for the first three-thousand (3,000) inhabitants and one (1)
13 retail license for each additional ene-thousand five-bundred
14 (1,500) inhabitants.

15 (2) The number of the inhabitants in such cities and 16 towns, exclusive of the number of inhabitants residing 17 within a distance of five-(5) miles from the corporate 18 limits thereof, shall govern the number of retail licenses 19 that may be issued for use within such cities and towns and 20 within a distance of five-(5) miles from the corporate 21 limits thereof +, provided, however, that where If two (2) or 22 more incorporated municipalities are situated within a 23 distance of five-{5} miles from each other, the total number of retail licenses that may be issued for use in both of 24 25 such municipalities and within a distance of five-{5} miles

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1 from their respective corporate limits- shall be determined on the basis of the combined population of both of such 2 3 municipalities and shall may not exceed the foregoing limitations. Notwithstanding the preceding sentence, the п 5 total population for determining the guota of a city may include, with the city's population, the population residing 6 outside, but within five (5) miles of the city limits in a 7 case where the number of persons residing outside but within я 9 five (5) miles of the city exceeds the number of persons 10 residing within the city. Such a determination may be made 11 only upon a special census taken by the department or its 12 agent at the expense of the applicant for a license under 13 this section. The said distance of five--{5} miles from the 14 corporate limits of any incorporated city or incorporated 15 town shall be measured in a straight line from the nearest 16 entrance of the premises proposed for licensing to the 17 nearest corporate boundary of such the city or town.

18 (3) Retail all-beverages licenses of issue on the date of the passage and approval of this code March 7, 1947, and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall may be issued in violation of such limitations; provided that such

(4)_Such limitations shall do not prevent the issuance
 of a nontransferable and nonassignable (as to cwnership
 only) retail license to any post of a nationally chartered

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veterans' organization or any lodge of a recognized mational 1 2 fraternal organization, if such veterans' or fraternal organization has been in existence for a period of five-45+ 3 £t. years or more prior to January 1, 1949. We-incorporated city--er--incorperated --- town--say--by-ordinance-restrict-the 5 6 number of ligencos that the department may -- issue -- provided 7 that --- RO--- rotail-license-may-be-issyed-by-the-dopartsent for 8 any-presides cituated withis-any-senc--ef--a--eity--er--tevs 9 whereis ... the -- sele-- of -- liquer-is-prohibited-by-ordisance, -a 10 cortified-copy-of-which-hag-boon-filed-with-the--department. 11 The-department-shall-have-disgration-to-deny-the-igsuance-of 12 a--- rotail--liconco---if---it-chall-detoraine-that-the-presicor 13 proposed for licensing are -- off -- regular -- police -- beate -- and 14 cannot-be-properly-policed-by-local-authorities.

15 (b) (5) the number of retail all-beverages licenses 16 that the department may issue for use at premises situated 17 outside of any incorporated city or incorporated town and 18 outside of the area within a distance of five-45} wiles from 19 the corporate limits thereof, shall be may not be more than 20 one (1) license for each seven-hundred--fifty---(750) 21 population of the country after excluding the population of 22 incorporated cities and incorporated towns in such county." 23 Section 7. Section 4-4-301, R.C.H. 1947, is amended to 24 read as follows:

25 "4-4-301. Application for <u>all-beverages</u> license --

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penalty for false statements. (1) Prior to the issuance of a <u>an_all-beverages</u> license as horoin provided <u>in_4-4-202</u>, the applicant shall file with the Montana department of revenue an application in writing, signed by the applicant, and containing such information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold, as may be required by the department.

8 (2) The application shall be verified by the affidavit 9 of the person making the same before a person authorized to 10 administer oaths. If any false statement is made in any 11 part of said the application, the applicant, or applicants, 12 shall-be-deemed are guilty of a misdemeanor, and upon 13 conviction thereof the license, if issued, shall be revoked 14 and the applicant, or applicants, subjected to the penalties 15 provided by law."

16 Section 8. Section 4-4-302, R.C.H. 1947, is amended to 17 read as follows:

18 "4-4-302. Notice of application -- publication ---19 protest. (1) When an application has been filed with the 20 Montana department of--revenue for a license to sell 21 alcoholic beverages at retail, or to transfer such license, the department shall promptly publish in a newspaper of 22 23 general circulation in the city, town, or county from whense 24 such which the application shall come comes, a notice that 25 such applicant has made application for such license, and

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that protests against the issuance of a license to the 1 applicant will be heard at a time and place stated in the 2 notice, which shall be in the city of Helena, Montana. 3 Notice of application for a new license shall be published а once a week for four--{4} consecutive weeks. Notice of 5 application for transfer of a license shall be published 6 once a week for two-(2) consecutive weeks. Notice may be 7 substantially in the following form: 8 9 NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE 10 11 Notice is hereby given that on the day of 19... one (name of applicant) filed an application for a 12

retail all-beverages license with the Montana department of revenue, to be used at (describe location of premises where license--is <u>beverages are</u> to be sold), and protests, if any there be, against the issuance of such license will be heard at the hour of ---M, on the day of, 19.., at the office of the Montana department of revenue, in Relena, Hontana.

 20
 Dated
 Signed

 21
 ADMINISTRATOR

22 (2) No license shall may be issued until on cr after 23 the date set in the notice for hearing protests. Nor shall 24 may a license under this code be issued if the said--Montana 25 department of-revenue-shall-find finds from the evidence at

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caid the hearing that the welfare of the people residing in 1 the vicinity of the place for which such license is desired 2 will be adversely and seriously affected, or that the 3 purposes of this code will not be carried out by the а issuance of such license. Each applicant shall, at the time 5 of filing his application, pay to the Montana department of 6 revenue, an amount sufficient to cover the costs of 7 publishing said the notice." 8

9 Section 9. Section 4-4-303, R.C.M. 1947, is amended to
10 read as follows:

11 "4-4-303. Investigation of application. Upon receipt 12 of a completed application for a license under this code. 13 accompanied by the necessary license fee and--bond, the 14 department of _____ foreage shall within thirty _____ 30} days 15 thereafter, gauge to be made make a thorough investigation 16 of all matters pertaining theretor and shall determine whether such applicant is qualified to receive a license and 17 18 his premises are suitable for the carrying on of the 19 business, and whether the requirements of this code and the rules and requisions prosulgated by the department are set 20 21 and complied with."

22 Section 10. Section 4-4-401, R.C.M. 1947, is amended 23 to read as follows:

24 "4-4-401. Pees for licenses ----empiration--dates---- 25 regulation--by--citics-and-towns. (1) (a) Each beer licensee,

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Т	under the provisions of this code, shall pay an annual
2	license fee as follows:
3	<u>(i) #ask each</u> #brewer,# wherever located, whose
4	product is sold or offered for sale within the state, five
5	handrod-dollars-{\$500};
6	<u>{ii} Bach</u> <u>each</u> #wholesaler# ₂ four-hundred-dellars
7	- {\$ 900 } ;
8	<u>(iii) Sach each BEER</u> ^g retailer ^g , twohundroddollars
9	-{\$200}; <u>with a wine license amendment</u> , an additional \$200;
10	(iv) for a license to sell beer at retail for
11	off-premises consumption only, the same as a retail beer
12	license:
13	<u>(v) any any</u> unit of a nationally chartered veterans
14	organization <u>, Éifty dollars (\$50);</u>
15	Allligensesissuedinany-year-ghall-empire-on-the
16	30th-day-of-June-at-midsight-of-gugh-yeas.
17	<u>[b]</u> A transfer of any such brever's, wholesaler's, or
18	beer retailer's license may be made on application to the
19	Montana department of-revenue with the consent of the said
20	department, provided that said the transferee shall-qualify
21	<u>qualifies</u> under this code. Thecitiesandincorporated
22	townomayonactordinancoo-dofining-cortain-arcac-in-caid
23	gities-or-towns-where-beer-may-or-may-not-be-soldproviding
24	that-said-ordinanco-dooc-net-affect-the-limit-of-rotail-beer
25	lignaseswhich-chall_be-issued_by_the-Montana_department-of

. .

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1 revenue-based-upon-the-pepulation-of-the-sity--er--town--and 2 said--city--of--sball--file-a--cortified-copy-of-said ordinanco-with-the-Hontana-department-of-revenue-3 4 (c) This code shall not be construed or interpreted so as to repeal, amend, modify, change, or alter any provisions 5 6 of this code which require beer manufactured outside of the 7 state of Montana and shipped into Montana to be consigned to 8 and shipped to a licensed wholesaler and by him unloaded 9 into his warehouse or subwarehouse in Montana. (2) The permit fee under 4-4-105(1) is computed at the 10 11 rate of \$15 a day for each day beer is sold at those events 12 lasting 2 or more days but in no case be less than \$30. 13 (3) The permit fee under 4-4-105(2) is \$10 for the 14 sale of beer only or \$20 for the sale of all alcoholic 15 beverages. 16 (4) Passenger carrier licenses shall be issued upon 17 payment by the applicant of an annual license fee in the sum 18 of \$300. 19 (5) The annual license fee for a license to sell wing 20 on the premises, when issued as an amendment to a beer-only 21 license, is \$200. 22 (6) Each licensee licensed under the guotas of 4-4-202 23 shall pay an annual license fee as follows: 24 (a) except as hereinafter provided, for each license 25 outside of incorporated cities and incorporated towns or in

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incorporated cities and incorporated towns with a population 1 of less than 2,000, \$400: 2 (b) except as hereinafter provided, for each license 3 in incorporated cities with a population of more than 2,000 ü 5 and less than 5,000, \$300; or within a distance of 5 miles thereof, measured in a straight line from the nearest 6 7 entrance of the premises to be licensed to the nearest 8 boundary of such city, \$500; 9 (c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 10 and less than 10,000 or within a distance of 5 miles 11 thereof, measured in a straight line from the nearest 12 entrance of the premises to be licensed to the nearest 13 14 boundary of such city, \$650; (d) for each license in incorporated cities with a 15 population of 10,000 or more, or within a distance of 5 15 17 miles thereof, measured in a straight line from the pearest 18 entrance of the premises to be licensed to the nearest 19 boundary of such city, \$800; 20 (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is 21 22 measured in a straight line from the nearest entrance of the 23 premises to be licensed to the nearest boundary of such city 24 or town; and where the premises of the applicant to be 25 licensed are situated within 5 miles of the corrorate

1 boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee 2 3 chargeable by the larger incorporated city or incorporated town applies and shall be paid by the applicant. When the u, 5 premises of the applicant to be licensed are situated within an incorporated_town or incorporated_city_and_any_portion_of 7 the incorporated town or incorporated city is without a 8 5-mile limit, the license fee chargeable by the smaller 9 incorporated town or incorporated city applies and shall be 10 paid by the applicant. 11 (f) an applicant for the issuance of an original 12 license to be located in areas described in paragraph (d) of 13 this subsection shall pay a one-time original license fee of 14 \$20,000 for any such license issued. The one-time license 15 fee of \$20,000 shall not apply to any transfer or renewal of 16 a license duly issued prior to July 1, 1974. All licenses, 17 however, are subject to the annual reneval fee of \$800. 18 (7) The license fees herein provided for are exclusive 19 of and in addition to other license fees chargeable in 20 Montana for the sale of liquor, beer, and walt beverages," 21 Section 11. Section 4-4-403, R.C.M. 1947, is amended 22 to read as follows: 23 "4-4-403. License-fee-fee-retail-sale-of-liquor-within 24 and-_without--gitigs--and-towng-of-designated-wopulations--census Census of population. Bach-licensee--licensed--under 25

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1	thequotasofsection-4-4-202-shall-pay-an-annual-license
2	fee-as-follows+
3	{a}Except-as-hereinafter-provided,_foreachlicence
4	outside-of-incorporated-eitics-and-incorporated-townsy-or-in
5	incorporated-citics-and-incorporated-towns-with-a-population
6	oflessthantwothousand (2,000) ,-four-hundred-dollars
7	-{\$400}-per-annum;
8	{b}R#GOPt-ac-boreinafter-providedy-foreachlicense
9	in
10	thousand(2,000)-and-less-than-five-thousand-(5,000),three
11	hundred{\$300.00}-dollars-per-amages-or-within-a-distance-of
12	five-{5}-miles-thereofy-measured-in-a-straight-line-from-the
13	nearestentrangeefthepremisestohe-liseaged-to-the
14	nearest-boundary-ef-such-city,-five-hundreddollare{\$500}
15	PCE- GRRUB;
16	{\$}Broopt25- hereinafter-provided,-for-each-license
17	in-incorporated citics with a population of more than five
18	thousand{5y000}andlessthan-ten-thousand-{10y000}y-or
19	withis a distance of five (5) miles thereofy measured in a
20	straightlinefrom-the-mearest-entranse-of-the-premises-to
21	be-licensed-tothenearestboundaryofsuchcitysix
22	hundrod-fifty-dollars-{\$650}-por-annus;
23	(d}Forcashlisenseininserperated-sities-with-a
24	population of ten thousand (10,000) or - morey or - within a
25	distanceoffive-(5)-miles-thereofy-measured-in-a-straight
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1	line_from
2	licensed-to-the-nearest-boundary-of-such-sity,-oight-hundred
3	dellars-{\$800}-per-abage;
4	(c)Formachrailway-system-in-the-state-of-Montana ,
5	three-hundred-(\$300.00)-dollars-per-annum;
6	{f}The-distance-of-five-{5}-wilcs-from-thecorporate
7	limits-of-any-incorporated-cities-and-incorporated-towas
8	shall-be-measuredinstraightlinefromthemearest
9	entrangeofthepremisogtobelicencod-to-the-nearest
10	boundary of such-oity-or-toung-and-where the promises of the
11	applicant-to-be-liconcod-aro-situated-within-five-(5)miles
12	ofthe-sorporate-boundaries-of-two-(2)-or-more-incorporated
13	Gities-er-incorporated_towns-ofdifferentpepulationsthe
14	liconseshargeablebythelargerincorporatedsityor
15	incorporated town-shall-apply-and-be-paid-by-theapplicant;
16	provided,bowever,that-when-the-presises-of-the-applica nt
17	to-be-ligensed-are-situated-within-an-inserperatedtowner
18	incorporated—city-and-any-portion-of-caid-incorporated-town
19	or incorporated-city bo-without caidfive{5}milelimi t
20	thenthe-lisenso-foo-shargoablo-by-the-smaller-inserperated
21	town-or-incorporated-city-shall-apply-and-bepaidbysaid
22	applicant.
23	ha-applicant-for-the.issuaace-of-aa-origiaal-licence-to
24	belocatedinareandecoribedin-cubsoction-(d)-of-this
25	coction shall-pay-a one-time-original-ligence-fee oftwenty

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1 theusand dollars (\$20,000) for any such license issued. The 2 caid obe-time license fee of twenty theusand dollars 3 (\$20,000) -- chall -- not -- apply to -any transfer or reneval of -a 4 license duly issued prior to July -- 1, -- 1974, -- All -- licenses, 5 hovever, chall be subject to the annual reneval fee of eight 6 hundred dollars (\$800).

7 The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the state of Montana for the sale of liquory beer and malt beverages.

The census taken under the direction of Congress 11 12 congress of the United States in the year ninoteen bundred 13 and-thirty,-and-overy-tep-years--thereafter, shall be the 14 basis upon which the respective populations of said the punicipalities shall be determined, unless a direct 15 enumeration of the inhabitants thereaf be is made by the 16 17 state or municipal corporation, in which case such later direct enumeration shall constitute such basisy, provided, 18 19 however, that no be census hereafter taken shall <u>may</u> be such 20 basis until it shall--have--been is published under the 21 authority under which the same shall-be is taken, and then 22 its effect shall be prospective only from the date of such 23 publication be-prospective-only-and-provided, further, that nono-of-the-provisions--of--this--act--chill--be--deemed--to 24 25 operate-retreastively."

Section 12. Section 4-4-404, R.C.H. 1947, is amended
 to read as follows:

Э. "4-4-404. Fee for and expiration of licenses. н Effective Each July 1, 1944, and at the same date of each 5 6 issue licenses to brewers, wholesalers, or retailers or for 7 the retail sale of alcoholic beverages liquer on an annual 8 basis, and at such fees as are prescribed by law, and such 9 licenses shall expire at midnight of June 30th 30 of the 10 succeeding year. The department shall notify each applicant 11 for an original license or renewal that he should inform 12 himself of applicable provisions of federal law which may 13 require a permit from a federal agency."

Section 13. Section 4-5-105, R.C.E. 1947, is amended
to read as follows:

16 "4-5-105. Fee to be charged. The county clerk and 17 recorders shall charge and collect a fee of one-dellar and fifty-conto (\$1.50) from the applicant at the time the 18 19 application is prepared; and One dellar (\$1) thereof shall 20 be transmitted to the Montana department of -- revenue along 21 with the application and shall be used to defray the cost of 22 administering and executing the provisions of this code 23 chapter. Any surplus shall revert to the general fund of 24 the-state of Montana. The remaining fifty-seats-(\$.50) 50 cents shall be paid into the general fund of the county to 25

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defray the county's costs in administering this program."
 Section 14. Section 4-6-102, R.C.H. 1947, is amended
 to read as follows:

台 "4-6-102. Sale of liquor not purchased from state 5 store forbidden --- penalty. It shall be is unlawful for any licensee to sell or keep for sale and/or have on his 6 7 premises for any purpose whatever, any liquor except that 8 purchased from the state liquor store, and any licensee found in possession of τ or selling and keeping for sale τ any 9 liquor which was not purchased from a state liquor store. 10 11 shall, upon conviction, be fined punished by a fine of not less than five-hundred-dollarg--(\$500)- nor or more than 12 13 fifteen-hundred-dollars-(\$1,500), or be punished by 14 imprisonment for not less than three (3) months more or more 15 than one-{1} year, or by both such fine and imprisonment. and if the department shall-be is satisfied that any such 16 17 liquor was knowingly sold or kept for sale within the 18 licensed premises by $\frac{1}{2}$ the licensee, or by his agents, 19 servants, or employees, it-shall-be-mandatory-that-said the 20 department shall immediately revoke the license of said licence." 21

22 Section 15. Section 4-6-205, R.C.M. 1947, is amended
23 to read as follows:

24"4-6-205. Unlawful alcoholic beverage --- seizure ---25forfeiture. Any investigator or peace officer who finds an

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1 alcoholic beverage, which he has reasonable cause to believe 2 is had or kept by any person in violation of the provisions of this code, may forthwith seize and remove the same and 3 LL. the packages in which the alcoholic beverage is kept, and upon conviction of the person for a violation of any 5 provision of this--section 4-3-102, the alcoholic beverage 6 7 and all packages containing the same shall, in addition to 8 any other penalty prescribed by this code, ipso facto be forfeited to the state of Hontana." 9

10 Section 16. Section 4-6-401, F.C.M. 1947, is amended 11 to read as follows:

12 "4-6-401. Premises where liquor illegally sold public 13 nuisance. Any room, house, building, boat, vehicle, 14 structure or place where alcoholic beverages are knowingly 15 manufactured, sold, or bartered, in violation of this code 16 or section 94-8-107 and all property knowingly kept and used 17 in maintaining the same is hereby declared to be a public 18 nuisance, and any person who maintains such a nuisance shall 19 be guilty of a misdemeanory and upon conviction thereof 20 shall be fined not less than one-hundred-dollars-(\$100-00), 21 nor more than five-hundred-dollars (\$500) and by 22 imprisonment be imprisoned not less than thirty 30 days, nor 23 or more than sim 6 months," 24 Section 17. Repealer. Sections 4-1-305, 4-1-307,

, 25 4-4-106, and 4-6-206, R.C.M. 1947, are repealed.

-End--28- 8B 41 HB 0041/02

1 HOUSE BILL NO. 41 2 INTRODUCED BY MARKS 3 4 A BTLL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY THE MONTANA ALCOHOLIC BEVERAGE CODE IN SUPPORT OF 5 RECODIFICATION: AMENDING SECTIONS 4-1-304, 4-2-102, 4-2-204, б. 7 4-4-105, 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303, 8 4-4-401, 4-4-403, 4-4-404, 4-5-105, 4-6-102, 4-6-205, AND 9 4-6-401: REPEALING SECTIONS 4-1-305, 4-1-307, 4-4-106, AND 4-6-206, R.C.H. 1947." 10 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTAWA: 13 Section 1. Section 4-1-304, R.C.M. 1947, is amended to 14 read as follows: 15 interected in ligger sales which to start a second 16 17 gifty commission or commencation Prohibited acts within 18 division. (1) No officer or employee of the liquor division, including those engaged in the sale of liquor at the various 19 20 state liquor stores, shall may be directly or indirectly 21 interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, 22 23 member of syndicate, shareholder, agent, or employee, and whether for his own benefit or in a fiduciary capacity for 24 25 some other person.

There are no changes in \underline{HP} \underline{HP} , and due to length will not be rerun. Please refer to yellow copy for complete text.

THIRD READIN

1 (2) No member or employee of the division or any 2 employee of the state shall may solicit or receive directly 3 or indirectly any commission, remuneration, or gift 4 whatsoever from any person or corporation having sold, 5 selling, or offering liquor for sale to the state or 6 division in-pursuance of pursuant to this code.

7 (3) No person selling or offering for sale toy or
8 purchasing liquor fromy the state liquor division, shall may
9 either directly or indirectly offer to pay any commission,
10 profit, or remuneration, or make any gift to any member or
11 employee of the division, or to any employee of the state,
12 or to anyone on behalf of such member or employee.

13 (4) The prohibition contained in subsection (3) of
14 this section does not prohibit the division from receiving
15 samples of liquor for the purpose of chemical testing,
16 subject to the following limitations:

17 (a) Each manufacturer, distiller. compounder. 18 rectifier, importer, or wholesale distributor, or any other 19 person, firm, or corporation proposing to sell any 20 spirituous liquors liquor to the Montana liquor division 21 shall submit, without cost to the division pricr to the 22 original purchase, an analysis of each brand and may submit 23 a representative sample not exceeding twenty-five-f25+ fluid 24 ounces of such merchandise to the beard-fdivision-}.

25 (b) It--shall-be-the-duty-of-the-division-when When a

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brand of liquor has been accepted for testing by the
 division, to the division shall forward the sample, unopened
 and in its entirety, to a qualified chemical laboratory for
 analysis.

5 (c) The division shall maintain written records of all 6 samples received, <u>such The</u> records shall show the brand 7 name, amount and from whom received, date received, the 8 laboratory or chemist to whom forwarded, the division's 9 action on the brand, and the person to whom delivered or 10 other final disposition of the sample.

(5) No liquor, wine, or other apirituous alcoholic 11 12 beverage shall may be withdrawn from the regular warehouse 13 inventory or from the state liquor stores of the Hontana 14 liquor division, for any purpose whatseever other than by 15 sale at the prevailing state retail prices, or for destroying damaged or defective merchandise. The division 16 17 shall maintain a written record including the type, brand, 18 and container sizes, number of bottles or other units; 19 signatures of witnesses, and method of destruction or other 20 disposition of damaged or defective warehouse or state store 21 merchandise."

22 Section 2. Section 4-2-102, R.C.M. 1947, is amended to
23 read as follows:

24 "4-2-102. Containers to be sealed with official seal
 25 -- opening package on liquor store premises forbidden. No

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spirite or wine shall liquor may be sold to any purchaser,
 except in a package, sealed with the official seal
 prescribed by this act code, which package shall may not be
 opened on the premises of a state store."

5 Section 3. Section 4-2-204, R.C.M. 1947, is amended to 6 read as follows:

7 "4-2-204. Department to sell to licensees -- posted 8 price. The department is hereby authorized any sell through its stores all kinds of liquor, wine, and cordials 9 kept in stock to licensees licensed under this code at the 10 11 posted price thereof in the store in which said the liquor is sold. All sales shall be upon a cash basis. The posted 12 price as--used--borein-shall-mean means the retail price of 13 14 such liquor as fired and determined by the department of revenue and in addition thereto an excise and license tax as 15 16 provided in this act-provided code."

Section 4. Section 4-4-105, B.C. M. 1947, is amended to
read as follows:

19 "4-4-105. Special permits to sell beer alcoholic 20 <u>beverages</u> — application and issuance — fee. (1) (a) Any 21 association or corporation conducting a picnic, convention, 22 fair, civic or community enterprise, or sporting eventy 23 shall in the discretion of the liquor division be entitled 24 to a special permit to sell beer to the patrons of such 25 event to be consumed within the enclosure wherein the event

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March 9, 1977

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 41 be amended as follows:

1. Amend page 9, section 5, line 3.
Following: "limitations"

Insert: "unless it is established on the record of a contested case hearing that an additional license or licenses would reasonably serve the public convenience and necessity"

2. Amend page 14, section 6, line 22. Following: ";"

Insert: "unless it is established on the record of a contested case hearing that an additional license or licenses would reasonably serve the public convenience and necessity"

HOUSE BILL NO. 41 ì INTRODUCED BY MARKS 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY 4 THE MUNTANA ALCOHOLIC BEVERAGE CODE IN SUPPORT OF 2 RECODIFICATION; AMENDING SECTIONS 4-1-304, 4+2-102, 4-2-204, 'n 4-4-105, 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303, 1 4-4-401, 4-4-403, 4-4-404, 4-5-105, 4-6-102, 4-6-205, AND 8 4-6-401: REPEALING SECTIONS 4-1-305. 4-1-307. 4-4-106. AND 4 4-6-206; R.C.M. 1947." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 4-1-304+ R.C.M. 1947, is amended to 13 14 read as follows: *4-1-304. tiquor---division---employees---not---to--be 15 interested-in-liquor-sales----unlawful-to--give--or--receive 16 gifty--commission--or--remuneration Prohibited acts within 17 division. (1) No officer or employee of the liquor division. 10 including those engaged in the sale of liquor at the various 19 state liquor stores, shall may be directly or indirectly 20 interested or engaged in any other business or undertaking 21 dealing in liquor, whether as owner, part owner, partner, 22 member of syndicate, shareholder, agents or employeer and 23 whether for his own benefit or in a fiduciary capacity for 24 25 some other person.

1 (2) No member or employee of the division or any employee of the state shall may solicit or receive directly 2 3 or indirectly any commission, remunerations or gift whatspever from any person or corporation having sold, 4 selling, or offering liquor for sale to the state or 5 6 division in-pursuance-of pursuant to this code. ŕ (3) No person selling or offering for sale toy or 8 purchasing liquor fromy the state liquor divisiony-shall may 9 eitner directly or indirectly offer to pay any commission, 10 profits or remunerationy or make any gift to any member or 11 employee of the division, or to any employee of the state, 12 or to anyone on behalf of such member or employee. 13 (4) The prohibition contained in subsection (3) of 14 this section does not prohibit the division from receiving samples of liquor for the purpose of chemical testing, 15 16 subject to the following limitations: 17 (a) Each manufacturer. distiller. compounder. rectifier, importer, or wholesale distributory or any other 18 19 person, firm, or corporation proposing to sell any 20 spirituous-liquors liquor to the Montana liquor division 21 shall submit, without cost to the division prior to the original purchase, an analysis of each brand and may submit 22 a representative sample not exceeding twenty-five-f25+ fluid 23 ounces of such merchandise to the board-Edivision . 24 25 (b) It--shall-be-the-duty-of-the-division-when When a

REFERENCE BILL

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brand of liquor has been accepted for testing by the
 division, to the division shall forward the sample, unopened
 and in its entirety, to a qualified chemical laboratory for
 analysis.

(c) The division shall maintain written records of all
samples received; such <u>the</u> records shall show the brand
name, amount and from whom received, date received, the
laboratory or chemist to whom forwarded, the division's
action on the brand, and the person to whom delivered or
other final disposition of the sample.

11 (5) No liquor, wine, or other spirituous alcoholic 12 beverage shell may be withdrawn from the regular warehouse 13 inventory or from the state liquor stores of the Montana 14 liquor divisiony for any purpose whatsoever other than by 15 sale at the prevailing state retail prices, or for 16 destroying damaged or defective merchandise. The division shall maintain a written record including the type, brand, 17 15 and container sizets number of bottles or other unitsts 19 signatures of witnessest, and method of destruction or other 20 disposition of damaged or defective warehouse or state store 21 merchandise."

22 Section 2. Section 4-2-102, R.C.M. 1947, is amended to 23 read as follows:

24 "4-2-102" Containers to be sealed with official seal
25 -- opening package on liquor store premises forbidden. No

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1 spirits-or-wine-shall liquor may be sold to any purchasery except in a packagev sealed with the official seal 2 prescribed by this act code, which package shall may not be 3 opened on the premises of a state store." 4 Section 3. Section 4-2-204, R.C.M. 1947, is amended to 5 6 read as follows: "4-2-204. Department to sell to licensees -- posted 2 n price. The department is--hereby--authorized--to may sell through its stores all kinds of liquor, wine, and cordials 9 kept in stock to licensees licensed under this code at the 10 posted price thereof in the store in which said the liquor 11 is sold. All sales shall be upon a cash basis. The posted 12 13 price as--used--herein-shall-mean means the retail price of 14 such liquor as fixed and determined by the department of revenue and in addition thereto an excise and license tax as 15 16 provided in this act-provided code." Section 4. Section 4-4-105, R.C.H. 1947, is amended to 17 18 read as follows: "4-4-105. Special permits to sell beer alcoholic 19 peverages -- application and issuance ----fee. (1)[a] Any 20 21 association or corporation conducting a picnic, convention, rair, civic or community enterprise, or sporting eventy 22

- 23 shall in the discretion of the liquor division be entitled
- 24 to a special permit to sell beer to the patrons of such
- 25 event to be consumed within the enclosure wherein the event
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1 is neld.

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2 <u>(0)</u> The application of any such association or 3 corporation shall be presented ten-(10) days in advance and 4 shall describe the location of such enclosure wherein wherein 5 such event is to be held, the nature of such the event, and 6 the period when it is contemplated that the same event will 7 be held. Such The application shall be accompanied by the 8 amount of the permit fee hereinafter-provided.

9 (c) The permit issued to such association or 10 corporation shall--be is a special permity but shall not 11 authorize the sale of beer except starting one--(1) day in 12 advance of the regular period when events are being held 13 upon such grounds and during the period described in such 14 the applicationy and for one-(1) day thereafter.

15 The--permit-fee-shall-be-at-the-rate-of-fifteen-dollars 16 (\$15)-per-day-for-each-day-beer-is-soldy-or-to--be--sold--at 17 those--events--losting-two-(2)-or-more-daysy-but-in-no-event 18 less-than-thirty-dollars-(\$30)y-hereby-fixed-os-the--minimum 19 fee-for-such-permity

(2) (a) Any A post of a nationally chartered veterans*
 organization or any a lodge of a recognized national
 fraternal organization, not otherwise licensed under this
 codey shalls in the discretion of the department, without
 notice or hearing as provided in section 4-4-302, be
 entitled to a special permit to sell beer or a special

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permit to sell all alcoholic beverages at such post or 1 2 lodge, to members and their quests only, to be consumed within the hall or building of such post or lodge. 3 4 (b) The application of such nationally chartered veterans¹ organization or lodge of a recognized national 5 6 fraternal organization shall describe the location of the 7 hall or building where the special permit shall will be used 8 and the date it will be used. Such-application-shall-be 9 accompanied-by-a-permit-fee-of-ten-dollars-{\$10}* 10 (c) The special permit issued shall be for a 11 twenty-four--{24}-hour 24-hour period only ending at 2 a.m. 12 only, and the department shall may not issue more than 13 14 calendar year.* 15 Section 5. Section 4-4-201, R.C.M. 1947, is amended to 16 read as follows: 17 #4-4-201. Issuance of retail beer licenses -- limit on 18 number of beer retail licenses -- wine license amendments -retail-license-fee off-premises consumption. (1) Except as 19 otherwise provided by law, a license to sell beer at retaily 20 21 or beer and wine at retail pursuant-to-subsection-f2; in 22 accordance with the provisions of this act code and the 23 requistions rules of the department of--revenue, may be 24 issued to any person, firms or corporation who shall-be is

25 approved by the department as a fit and proper persona firm.

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1 or corporation to sell beerts providedy except that: 2 (a) the number of retail beer licenses that the 3 department may issue for premises situated within 4 incorporated cities and incorporated towns and within a 5 distance of five-(5) miles from the corporate limits of such 6 cities and towns shall be determined on the basis of 7 population as shown by the most recent official United States census authorized by Congress congress, to--wit as 8 9 follows:

10 <u>(i)</u> in incorporated towns of five-hundred-f500+ 11 inhabitants or less and within a distance of five-f5+ miles 12 from the corporate limits of such towns, not more than one 13 ft+ retail beer license which sha++ may not be used in 14 conjunction with a retail ++ for all-beverages license;

15 <u>(ii)</u> in incorporated cities or incorporated towns of 16 more than five-hundred-(500) inhabitants and not over two 17 thousand--(2±000) inhabitants and within a distance of five 18 (5) miles from the corporate limits of such cities or towns, 19 one (1) beer license for each five-hundred-(500) inhabitants 20 which said-beer-license-shall may not be used in conjunction 21 with retail liquor all-beverages licenses;

22 <u>(iii)</u> in incorporated cities of over two--thousand
23 (2±000) inhabitants and within a distance of five-(5) miles
24 from the corporate limits of such cities, two (2) additional
25 retail beer licenses for the first two--thousand--(2±000)

1 innabitants or major fraction thereof and one (1) additional 2 retail beer license for each additional two-thousand-(2,000) 3 inhabitants which shall may not be used in conjunction with 4 retail ticeor <u>all=bevarages</u> licensesvi

5 (b) The the number of the inhabitants in such cities 6 and towns, exclusive of the number of inhabitants residing 1 within a distance of five--f5; miles from the corporate limits thereof, shall govern the number of retail been H. licenses that may be issued for use within such cities and 9 towns and within a distance of five-(5) miles from the 10 corporate limits thereoft, providedy-that-where If two (2) 11 or more incorporated municipalities are situated within a 12 distance of five-(5) miles from each other, the total number 13 14 of retail beer licenses that may be issued for use in both 15 of such municipalities and within a distance of five-454 miles from their respective corporate limitsy shall be 16 determined on the basis of the combined populations of both 17 18 of such municipalities and shall may not exceed the 19 foregoing limitations. The said distance of five-(5) miles from the corporate limits of any incorporated city or 20 21 incorporated town shall be measured in a straight line from 22 the nearest entrance of the premises proposed for licensing 23 to the nearest corporate boundary of such city or town. 24 (c) Retail beer licenses of issue on the-date 25 of-the-pessage-and-approval-of-this-act March 7: 1947: and

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which are in excess of the foregoing limitations shall be 1 renewable, but no new licenses shall may be issued in 2 violation of such limitations UNLESS IT IS ESTABLISHED ON 3 THE RECORD OF A CONTESTED CASE HEARING THAT AN ADDITIONAL 4 LICENSE OR LICENSES HOULD REASONABLY SERVE THE PUBLIC 5 CONVENIENCE AND NECESSITY; providedy-that ь

(d) such limitations shall do not prevent the issuance 7 of a nontransferable and nonassignable retail beer license 8 ony a post of a nationally chartered veterans* Q. to 10 organization or any a lodge of a recognized national fraternal organization, if such veterans or fraternal 11 12 organization has been in existence for a period of five t5} years or more prior to January 1, 1949#1 13

14 (e) the number of retail beer licenses that the 15 department may issue for use at premises situated outside of any incorporated city or incorporated town, and outside of 16 the area within a distance of 5 miles from the corporated 17 18 limits thereof or for use at premises situated within any 14 unincorporated town shall be as determined by the department in the exercise of its sound discretion, except that no 20 21 retail peer license may be issued for any premises so 22 situated unless the department determines that the issuance of such license is required by public convenience and 23 24 necessity. 25 (2) The cities and incorporated towns may enact

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à. ordinances defining certain areas in the cities, and towns where alcoholic beverages may or may not be sold. No 1 3 incorporated city or incorporated town may by ordinance restrict the number of licenses that the department may 4 issuet. provided-that <u>However</u>, no retail beer license may be 5 ь issued by the department for any premises situated within 7' any zone of such city or town wherein where the sale of beer 8 or liquor is prohibited by ordinance, a certified copy of 9 which has been filed with the department. The department 10 shall--have--discretion-to may deny the issuance of a retail 11 beer or all-beverages license if it shall---determine 12 determines that the premises proposed for licensing are off 13 regular police beats and cannot be properly policed by local 14 authorities. 15 {b}--The--number--of--retsil--beer--licenses--that--tha 16 department-may-issue-for-use-at-premises-situated-outside-of 17 any--incorporated--city--or-incorporated-town-and-outside-of 18 the-area-within-a--distance--of--five--/5j--miles--from--the 19 corporated--limits--thereofy-or-for-use-st-oremises-situated 20 within-any-unincorporated-town-shall-be-as-determined-by-the 21 department--in--the--exercise--of--its---sound---discretiont providedy--that--no--retail-beer-license-shall-be-issued-for 22 23 any--premises--so--situated--unless--the--department---shall

24 determine--that--the-issuance-of-such-license-is-required-by

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2 j public-convenience-and-necessity.

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(2)(3) A person holding a license to sell beer for 1 consumption on the premises at retail may apply to the 2 department for an amendment to the license permitting the 3 holder to sell wine as well as beer. The division may issue 4 5 such amendment if it finds, on a satisfactory showing by the 6 applicant, that the sale of wine for consumption on the 7 premises would be supplementary to a restaurant or prepared 8 food <u>prepared-food</u> business. A person holding a beer-and-wine license may sell wine for consumption on the 9 10 Dremises. He may buy wine only at retail from the 11 department. Nonretention of the beer license, for whatever reason, shall mean automatic loss of the wine amendment 12 13 license.

14 {3}--The-annual-license-fee-for-a-license-to-sell--wine 15 on--the-premisesy-when-issued-os-on-amendment-to-a-beer-only license-shall-be-two-hundred-dollars-(\$200)* 16

17 (4) A retail license to sell beer in the original 18 packages for off-premise off-premises consumption only may be issued to any person, firms or corporation who shall-be 19 20 is approved by the department as a fit and proper person, 21 firm. or corporation to sell beer and whose premises 22 proposed for licensing are operated as a bona fide grocery 23 store or a drugstore licensed as a pharmacy. The number of such licenses that the department may issue shall is not be 24 limited by the provisions of subsection (1) of this section, 25

its sound discretion, and the department may in the exercise ۷ of its sound discretion grant or deny any application for 3 any such license or suspend or revoke any such license for 4 cause. The-annual-license-fee-for-a-license-to-sell-beer-at 5 retail-for-off-premises-consumption-shall-be-the-same-cs-for 6 7 a-reteil-beer-licensey" Section 6. Section 4-4-202, R.C.M. 1947, is amended to 8 9 read as follows: 10 *4-4-202. All-beverage All-beverages license quota. +++ except as otherwise provided by law, a license to sell 11 liquor, beer, and wine at retail, an all-beverages license, 12 in accordance with the provisions of this code and the 13 rearbations rules of the Montana department of-revenue, may 14

but shall be determined by the department in the exercise of

- be issued to any person who shall-be is approved by the department as a fit and proper person to sell such 16
- 17 peveragest. provided, except that:

totill the number of all-beverages licenses that the 16 department may issue for premises situated within 19 incorporated cities and incorporated towns and within a 20 distance of five-(5) miles from the corporate limits of such 21 cities and towns shall be determined on the basis of 22 23 population as shown by the most recent official United States census authorized by Congress congress, to-wit as 24 follows: 25

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(a) In in incorporated towns of five-hundred-(500)
 inhabitants or less and within a distance of five-(5) miles
 from the corporate limits of such towns, not more than two
 tetail licenses;

5 (b) in incorporated cities or incorporated towns of 6 more than five-hundred (500) inhabitants and not over three 7 thousand-(3_000) inhabitants and within a distance of five d (5) miles from the corporate limits of such cities and 9 towns, three (3) retail licenses for the first one-thousand 10 (1_000) innabitants and one (1) retail license for each 11 additional one-thousand (1_000) inhabitants;

12 <u>(c)</u> in incorporated cities of over three-thousand 13 (3±000) inhabitants and within a distance of five-(5) miles 14 from the corporate limits thereof, five (5) retail licenses 15 for the first three-thousand-(3±000) inhabitants and one (1) 16 retail license for each additional one-thousand-five-hundred 17 (1±500) inhabitants.

[2] The number of the inhabitants in such cities and 15 towns, exclusive of the number of inhabitants residing 19 20 within a distance of five--+5+ miles from the corporate 21 limits thereofy shall govern the number of retail licenses that may be issued for use within such cities and towns and 22 within a distance of five--+57 miles from the corporate 23 24 limits thereoft, providedy-howevery-that-where If two f2t or 25 more incorporated municipalities are situated within a

distance of five-f5; miles from each other, the total number 1 2 of retail licenses that may be issued for use in both of 3 such municipalities and within a distance of five-t5t miles 4 from their respective corporate limits, shall be determined 5 on the basis of the combined population of both of such 6 municipalities and shall may not exceed the foregoing 7• limitations. Notwithstanding the preceding sentence, the 8 total population for determining the quota of a city may 9 includey with the city's populationy the population residing 10 outsidey but within five-{5} miles of the city limits in a case where the number of persons residing outside but within 11 12 five-t5; miles of the city exceeds the number of persons 13 residing within the city. Such a determination may be made only upon a special census taken by the department or its 14 15 agent at the expense of the applicant for a license under 16 this section. The said distance of five-(5) miles from the 17 corporate limits of any incorporated city or incorporated 18 town shall be measured in a straight line from the nearest 19 entrance of the premises proposed for licensing to the nearest corporate houndary of such the city or town. 20 ž1 (1) Retail all-beverages licenses of issue on the-date 22 of-the-passage-and-approval-of-this-code March 7, 1947, and 23 which are in excess of the foregoing limitations shall be

25 violation of such limitations; UNLESS IT IS ESTABLISHED ON

renewable, but no new licenses shall may be issued in

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1	INE RECURD DE A CONTESTED CASE HEARING _INAT _AN _ADDITIONAL
2	LICENSE_OR_LICENSES_ WOULD_REASONABLY_SERVE_THE_PUBLIC
£	CONVENIENCE_AND_NECESSITY_ provided-that-such
4	(4) Such limitations shall do not prevent the issuance
5	of a nontransferable and nonassignable (as to ownership
6	only) retail license to any post of a nationally chartered
1	veterans* organization or any lodge of a recognized national
8	fraternal organizationy if such veterans! or fraternal
9	organization has been in existence for a period of five-(5)
10	years or more prior to January 1, 1949. Noincorporated
11	cityorincorporatedtownmayby-ordinance-restrict-the
12	number-of-licenses-that-the-deportment-mayissuesprovided
13	thatnoretail-license-may-be-issued-by-the-department-for
14	eny-premises-situsted-within-any-zoneofacityortown
15	whereinthesaleofliquor-is-prohibited-by-ordinancev-a
16	certified-copy-of-which-has-been-filed-with-thedepartment#
17	The-department-shall-have-discretion-to-deny-the-issuonce-of
18	aretaillicenseifit-shall-determine-that-the-premises
19	proposed-for-licensing-are-offregularpolicebeatsand
20	cannot-be-property-policed-by-local-authorities*
21	<pre>tb;[5] the Ing number of retail all-beverages licenses</pre>
22	that the department may issue for use at premises situated
Z 3	outside of any incorporated city or incorporated town and
24	outside of the area within a distance of five-(3) miles from

one ttt license for each seven--hundred---fifty---(750) 1 population of the county, after excluding the population of 2 incorporated cities and incorporated towns in such county." 3 Section 7. Section 4-4-301, R.C.M. 1947, is amended to 4 read as follows: 5 6 #4-4-301. Application for <u>all-beverages</u> license ---7 penalty for false statements. (1) Prior to the issuance of a an all-beverages license as herein provided in 4-4-202, н the applicant shall file with the Montana department of 9 10 revenue an application in writing, signed by the applicanty and containing such information and statements relative to 11 the applicant and the premises where the alcoholic beverage 12 13 is to be soldy as may be required by the department. (2) The application shall be verified by the affidavit 14 of the person making the same before a person authorized to 15 administer oaths. If any false statement is made in any 16 part of said the application, the applicanty or applicantsy 17 shall--be--deemed are quilty of a misdemeanory and upon 18 conviction thereof the license, if issued, shall be revoked 19 and the applicanty or applicantsy subjected to the penalties 20 provided by law." 21 22 Section 8. Section 4-4-302, R.C.M. 1947, is amended to 23 read as follows: "4-4-302. Notice of application -- publication --24 protest. [1] When an application has been filed with the 25

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the corporate limits thereofy shall be may not be more than

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Hontone department of -- revenue for a license to sell 1 alcoholic beverages at retaily or to transfer such license, 2 the department shall promptly publish in a newspaper of 3 general circulation in the city, town, or county from whence 4 such which the application shall-come comesy a notice that 5 such applicant has made application for such licensey and 6 that protests against the issuance of a license to the 7 applicant will be heard at a time and place stated in the 8 notice: which shall be in the city of Helena, Montana. 9 Notice of application for a new license shall be published 10 11 application for transfer of a license shall be published 12 once a week for two-t2+ consecutive weeks. Notice may be 13 substantially in the following form: 14 NOTICE OF APPLICATION FOR RETAIL 15 ALL-BEVERAGES LICENSE 16

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Notice is hereby given that on the day of 17 19..., one (name of applicant) filed an application for a 18 retail all-beverages license with the Montana department of 19 revenue, to be used at (describe location of premises where 20 license--is beverages are to be sold); and protests; if any 21 there be, against the issuance of such license will be heard 22 at the hour of --M, on the day of 19... at the 23 office of the Montana department of revenuev in Helenav 24 25 Montana.

1	Jated Signed
2	ADMINISTRATOR
3	(2) No license shall may be issued until on or after
4	the date set in the notice for hearing protests. Nor shall
5	pay a license under this code be issued if the saidMontena
6	department of-revenue-shall-find <u>finds</u> from the evidence at
r	soid the hearing that the welfare of the people residing in
8	the vicinity of the place for which such license is desired
9	will be adversely and seriously affected, or that the
10	purposes of this code will not be carried out by the
11	issuance of such license. Each applicant shall, at the time
12	of filing his application, pay to the M ontana department of
13	revenues an amount sufficient to cover the costs of
Ĭ4	publishing said <u>the</u> notice."
15	Section 9. Section 4-4-303, R.C.M. 1947, is amended to
16	read 3s follows:
17	#4-4-303。 Investigation of application。 Upon receipt
18	of a completed application for a license under this code.
19	accompanied by the necessary license fee andbond, the
20	department ofrevenue shall within thirty(30) days
21	thereaftery-cause-to-be-made make a thorough investigation
22	of all matters pertaining theretoy and shall determine
23	whether such applicant is qualified to receive a license and
24	his premises are suitable for the carrying on of the
25	businessy and whether the requirements of this code and the

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1 rules and-regulations promulgated by the department are met 2 and complied with." 3 Section 10. Section 4-4-401, R.C.M. 1947, is amended to read as follows: 4 - 5 "4-4-401. Fees for licenses ----expiration--dates----6 regulation--by--cities-and-towns. [1](a) Each beer licensee. 7 under the provisions of this code; shall pay an annual 6 license fee as follows: y (i) forh each "brewer," wherever located, whose 10 product is sold or offered for sale within the state. five hundred-dollars-(\$500); for each storage_depot. \$400; 11 12 (ii) Each each "wholesaler", four-hundred-dollars **{\$400};** 13 14 (iii) Each gach BEER "retailer", two--hundred--dollers 15 (\$200); with a wine license amendment an additional \$200; 16 (iv) for a license to sell beer at retail for 17 off-premises consumption only, the same as a retail beer 18 license: 19 1x1 any any unit of a nationally chartered veterans* 20 organizations fifty-dollars-(\$50)ts 21 All--licenses--issued--in--any-year-shall-expire-on-the 22 30th-day-of-dune-at-midnight-of-such-years 23 (b) A transfer of any such brewer's, wholesaler's, or 24 beer retailer's license may be made on application to the 25 Hontana department of -revenue with the consent of the said

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1 departments provided that said the transferee shall-qualify 2 qualifies under this code. The--cities--ond--incorporated 3 towns--may--enoct-ordinances-defining-certain-arcas-in-said cities-or-towns-where-beer-may-or-may-not-be-soid--providing 6 that-soid-ordinance-does-not-affect-the-limit-of-retail-beer 5 6 ticenses--which-shall-be-issued-by-the-Montone-department-of 7 revenue-based-upon-the-population-of-the-city--or--town--and 8 said--city--pr--tpyn--shall--file--a--certified-copy-of-said 4 ordinance-with-the-Hontona-denartment-of-revenues 10 (c) This code shall not be construed or interpreted so 11 as to repeal, amend, modify, change, or alter any provisions 12 of this code which require beer manufactured outside of the 13 state-of Montana and shipped into Montana to be consigned to 14 and shipped to a licensed wholesaler and by him unloaded 15 into his warehouse or subwarehouse in Montana. 16 [2] The permit fee under 4-4-105(1) is computed at the 17 rate of \$15 a day for each day beer is sold at those events 18 lasting 2 or more days but in no case be less than \$30. 19 (3) The permit fee under 4-4-105(2) is \$10 for the 20 sale of beer only or \$20 for the sale of all alcoholic 21 beverages. 22 (4) Passenger carrier licenses shall be issued upon 23 payment by the applicant of an annual license fee in the sum 24 of \$300. 25 (5) The annual license fee for a license to sell wine

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<u>ontae_premises.when_issued_as_an_amendment_to_a_beer-on)</u>
licenses_is_\$200a
<u>(6) Each licensee licensed under the quotas of 4-4-202</u>
<u>shall_pay_an_annual_license_fee_as_follows:</u>
(a)except_as_hereinafter_providedforeachlicense
<u>outside_of_incorporated_cities_and_incorporated_towns_or_in</u>
incorporated cities and incorporated towns with a population
of_less_than_2:000: \$400:
(b) except as hereinafter provided, for each license
in incorporated cities with a population of more than 2,000
and less than 5:000: 1300; or within a distance of 5 miles
thereof, measured in a straight line from the nearest
<u>entrance of the premises to be licensed to the nearest</u>
boundary_of_such_citys_\$500:
(c) except as hereinafter provided. for each license
in incorporated cities with a population of more than 5,000
and less than 10.000 or within a distance of 5 miles
thereof, measured in a straight line from the nearest
entrance_of_the_premises_to_be_licensed_to_the_nearest

20 boundary of such city, \$6501

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21 (d) for each license in incorporated cities with a 22 population of 10,000 or more, or within a distance of 5 23 miles thereof, measured in a straight line from the mearest 24 entrance of the premises to be licensed to the mearest 25 boundary of such city, \$800;

*	<u>15 1 - 2012 - 212 23 (0 2 - 21 - 2 - 0) 1 22 - 1 [20 - 20 2 - 20</u>
Z	of any incorporated cities and incorporated towns is
ذ	measured in a straight line from the nearest entrance of the
4	premises to be licensed to the nearest boundary of such city
5	or town: and where the premises of the applicant to be
6	licensed are situated within 5 miles of the corporate
T	boundaries of two or more incorporated cities or
8	incorporated towns of different populations, the license fee
4	chargeable_by_the_larger_incorporated_city_or_incorporated
10	town applies and shall be paid by the applicant. When the
11	premises of the applicant to be licensed are situated within
12	an incorporated town or incorporated city and any portion of
13	the incorporated town or incorporated city is without a
14	5-mile limit: the license fee chargeable by the smaller
15	incorporated_town_or_incorporated_city_applies_and_shall_be
16	paid by the applicant.
17	(f) an applicant for the issuance of an original
18	license_to_be_located_in_areas_described_in_paragraph_(d)_of
19	this subsection shall pay a one-time original license fee of
20	\$20,000 for any such license issued. The one-time license
21	fee_of_\$20,000_shall_not_apply_to_any_transfer_or_renewal_of

(e) the distance of 5 miles from the corporate limits

- 22 a license duly issued prior to July 1, 1974, All licenses,
- 23 however, are subject to the annual renewal fee of \$800.

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- 24 [7] The license fees herein provided for are exclusive
- 25 of and in addition to other license fees chargeable in

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1	Montana_for_the_salw_of_liquor.beer. and malt_beverages."
2	Section 11. Section 4-4-403, R.C.M. 1947, is amended
3	to read as follows:
4	"4-4-403. License-fee-for-retail-sale-of-liquor-within
5	andwithoutcitiesand-towns-of-designated-populations
6	census <u>Census</u> of population. Each-licenseelicensedunder
7	thequotasofsection-4-4-202-shall-pay-an-onnual-license
8	fee-as-follows+
9	{a}Except-as-hereinsfter-providedy-foreachlicense
10	outside-of-incorporated-cities-and-incorporated-townsy-or-in
11	incorporated-eities-and-incorporated-towns-with-a-population
12	of lessthontwothousand{2y000}y -four-hundred-do llars
13	(\$400)-per-annum;
14	tb;Excapt-as-hereinsfter-providedy-foreachficense
14 15	tb;Except-as-hereinsfter-providedy-foreachlicense inincorporatedcitieswith-a-population-of-more-than-two
15	inincorporatedcitieswith-a-population-of-more-than-two
15 16	inincorporatedcitieswith-a-population-of-more-than-two thousand-{2 ,000}-and-less-than-five-thousand-{5,000},-three
15 16 17	inincorporatedcitieswith-s-population-of-more-than-two thousand-{2+800}-and-less-than-five-thousand-{5+000}+three hundrad-{\$300+00}-dollars-per-annumt-or-within-a-distance-of
15 16 17 18	inincorporatedcitieswith-a-population-of-more-than-two thousand-{2y000}-and-less-than-five-thousand-{5y000}ythree hundrad-{\$300y00}-dollars-per-annum}-or-within-a-distance+of five-{5}-miles-thereofy-measured-in-a-straight-line-from-the
15 16 17 18 19	inincorporatedcitieswith-a-population-of-more-than-two thousand-(2+000)-and-less-than-five-thousand-(5+000)+three hundrad-(\$300+00)-dollars-per-annum)-or-within-a-distance-of five-(5)-miles-thereofy-measured-in-a-straight-line-from-the nearestentranceofthepremisestobe-licensed-to-the
15 16 17 18 19 20	<pre>inincorporatedcitieswith-a-population-of-more-than-two thousand-{2y000}-and-less-than-five-thousand-{5y000}ythree hundrad-{\$300y00}-dollars-per-annum}-or-within-a-distance-of five-{\$}-miles-thereofy-measured-in-a-straight-line-from-the nearestentranceofthepremisestobe-licensed-to-the nearest-boundary-of-such-cityy-five-hundreddollars{\$500}</pre>
15 16 17 18 19 20 21	<pre>inincorporatedcitieswith-a-population-of-more-than-two thousand-{2v000}-and-less-than-five-thousand-{5v000}-three hundrad-{\$300v00}-dollars-per-annum}-or-within-a-distance-of five-{5}-miles-thereofy-measured-in-a-straight-line-from-the nearestentranceofthepremisestobe-licensed-to-the nearest-boundary-of-such-cityv-five-hundreddollars{\$500} per-annum;</pre>
15 16 17 18 19 20 21 22	<pre>inincorporatedcitieswith-a-population-of-more-than-two thousand-{2y000}-and-less-than-five-thousand-{5y000}ythree hundrad-{\$300y00}-dollars-per-annum}-or-within-a-distance-of five-{\$}-miles-thereofy-measured-in-a-straight-line-from-the nearestentranceofthepremisestobe-licensed-to-the nearest-boundary-of-such-cityy-five-hundreddollars{\$500} per-annum;</pre>
15 16 17 18 19 20 21 22 23	<pre>inincorporatedcitieswith-a-population-of-more-than-two thousand-{2v000}-and-less-than-five-thousand-{5v000}ythree hundrad-{300v00}-dollars-per-annum}-or-within-a-distance-of five-{5}-miles-thereofy-measured-in-a-straight-line-from-the nearestentranceofthepremisestobe-licensed-to-the nearest-boundary-of-such-cityv-five-hundreddollars{\$500} per-annum;</pre>

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1	straight linefrom-the-nearest-entrance-of-the-premises-to
2	be- licensed-tothenearestbounderyofsuchcityysi x
3	hundred-fifty-dollars-t\$650}-per-annum;
4	td}foreachlicenseinincorporated-cities-with- a
5	population-of-ten-thousand-(10,000)-ormore,orwithina
6	distanceoffive-{5}-miles-thereofy-measured-in-a-straight
7	tine-fromthenearestentranceofthepremisestobe
8	licensed-to-the-nearest-boundary-of-such-cityy-aight-hundred
9	dollars-f\$800)-per-annum;
10	fe]Foreachrailway-system-in-the-state-of-Montanay
11	three-hundred-(\$300+08)-dollars-per-annum;
12	{f}The~distance-of-five-{5}-mites-from-the corporate
13	limits ofanyincorporatedcities-and-incorporated-towns
14	shall-be-measuredinastraightlinefromtheneares t
15	entranceofthepremisestobe licensed-to-the-neares t
16	boundary-of-such-city-or-towns-and-where-the-premises-of-the
17	applicant-to-be-licensed-are-situated-within-five-(5)miles
18	ofthe-corporate-boundaries-of-two-(2)-or-more-incorporated
19	cities-or-incorporated-towns-ofdifferentpopulationsthe
20	ticensechargeablebythelargerincorporatedcityor
21	incorporated-town-shall-apply-and-be-paid-by-theapplicant;
22	providedyhoweverythat-when-the-premises-of-the-opplicant
23	to-be-licensed-are-situated-within-an-incorporatedtownor
24	incorporatedcity-and-ony-portion-of-said-incorporated-town
25	o r-incorporated-city-be-without-saidfive(5)milelimit

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1	thenthe-ficense-fee-chargeable-by-the-smaller-incorporated
2	town-or-incorporated-city-shall-apply-and-bepaidbysaid
3	appiicante
4	An-applicant-for-the-issuance-of-an-original-license -to
5	belocatedinareasdescribedin-subsection-(d)-of-this
ъ	section-shall-pay-a-one-time-original-license-fee-oftwenty
7	thousanddollars-(\$20,000)-for-any-such-license-issued#-The
4	saidone-timelicensefeeoftwentythousanddollars
9	{\$28y888}}shallnotapply-to-any-transfer-or-renewal-of-a
10	}icense-duty-issued-prior-to-dutyty1974sAttticensesv
11	h owevery-shall-be-subject-to-the-annual-renewal-fee-of-ei ght
12	hundred-do}}ars-{\$800}#
13	Theticensefees-herein-provided-for-are-exclusive-of
14	and-in-addition-to-otherlicansefeeschargeobleinthe
15	stateofMontonaforthesaleof-liquory-beer-and-malt
15	pcastages*
17	The census taken under the direction of Congress
18	<u>congress</u> ofthe-United-States-in-the-year-nineteen-hundred
19	and-thirty-and-every-ten-yearsthereaftery shall be the
20	basis upon which the respective populations of soid <u>the</u>
21	municipalities shall be determinedy unless a direct
22	enumeration of the inhabitants thereof-be is made by the
23	state or municipal corporation, in which case such later
24	direct enumeration shall constitute such basis y_providedy
25	howevery-that-no <u>yo</u> census hereafter taken shall <u>may</u> be such

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1	basis until it shollnavebeen <u>is</u> published under the
2	authority under which the same shall-be is taken, and then
з	its effect shall be prospective only from the date of such
4	publication be-prospective-only-and-providedy-furthery-that
5	none-of-the-provisionsofthisactshailbedeemedto
6	operate-retroactively."
7	Section 12. Section 4-4-404, R.C.M. 1947, is amended
8	to read as follows:
9	"4-4-404. Fee for and expiration of ≩icenses.
10	Effective Each July 1, 1944, and at the same data of each
11	ycar-thercoftery the Nontana department ofrevenue shall
12	issue licenses <u>to brewers, wholesalers, or retailers or</u> for
13	the retail sale of alcoholic beverages liquor on an annual
14	basis, and at such fees as are prescribed by law, and such
15	licenses shall expire at midnight of June 30th <u>30</u> of the
10	succeeding year. The department shall notify each applicant
17	for an original license or renewal that he should inform
18	himself of applicable provisions of federal law which may
19	require a permit from a federal agency."
20	Section 13. Section 4-5-105, R.C.M. 1947, is amended
21	to read as follows:
22	"4-5-105. Fee to be charged. The county clerk and
23	recorders shall charge and collect a fee of one-dollar-and
24	fifty-cents-(\$1.50) from the applicant at the time the
25	application is prepared s; and One-dollar-(\$1) thereof shall

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1 be transmitted to the Hontone department of--revenue along 2 with the application and shall be used to defray the cost of 3 administering and executing the provisions of this code 4 <u>Chapter</u>. Any surplus shall revert to the general fund of 5 the--state of Montana. The remaining fifty-cents (%x50) 50 6 <u>cents</u> shall be paid into the general fund of the county to 7 defray the county*s costs in administering this program.^m

8 Section 14. Section 4-6-102, R.C.M. 1947, is amended
9 to read as follows:

10 #4-6-102. Sale of liquor not purchased from state 11 store forbidden --- penalty. It shall-be is unlawful for any 12 licensee to sell or keep for sale endyor have on his 13 premises for any purpose whatevery any liquor except that 14 purchased from the state liquor store, and any licensee 15 found in possession of y or selling and keeping for saley any 16 liquor which was not purchased from a state liquor storew 17 shall, upon conviction, be fined punished by a fine of not 18 less than five--hundred--dollars--f\$5001--nor or more than 19 fifteen--hundred--dollars--t\$1,500;, or be __punished by 20 imprisonment for not less than three-(3) months nor or more 21 than one-(1) year, or by both such fine and imprisonment, 22 and if the department shall-be is satisfied that any such 23 liquor was knowingly sold or kept for sale within the 24 licensed premises by such the licenseev or by his agents. 25 servants or employees, it-shall-be-mandatory-that-soid the

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1 department shall immediately revoke the license of-said
2 licensee."

3 Section 15. Section 4-6-205, R.C.M. 1947, is amended
4 to read as follows:

#4-6-205. Unlawful alcoholic beverage -- seizure --5 forfeiture. Any investigator or peace officer who finds an 6 7 alcoholic beveragev which he has reasonable cause to believe is had or kept by any person in violation of the provisions ы 9 of this code, may forthwith seize and remove the same and the packages in which the alcoholic beverage is kept, and 10 11 upon conviction of the person for a violation of any provision of this-section 4-3-102, the alcoholic beverage 12 13 and all packages containing the same shall, in addition to 14 any other penalty prescribed by this code, ipso facto be 15 forfeited to the state of Montana."

16 Section 16. Section 4-6-401, R.C.M. 1947, is amended 17 to read as follows:

18 #4-6-401. Premises where liquor illegally sold public nuisance. Any room, house, building, boat, vehicle, 19 20 structure or place where alcoholic beverages are knowingly manufactured, sold, or bartered, in violation of this code 21 22 or section 94-8-107 and all property knowingly kept and used in maintaining the same is hereby declared to be a public 23 nuisance, and any person who maintains such a nuisance shall 24 be quilty of a misdemeanory and upon conviction thereof 25

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1 shall be fined not less than one-hundred-dollars-(\$100+00)y
2 nor or more than five--hundred--dollars--(\$500) and by
3 imprisonment be_imprisoned not less than thirty 30 daysy-nor
4 or more than six 6 months."

5 Section 17. Repealer. Sections 4-1-305, 4-1-307,

6 4-4-106, and 4-6-206, R.C.M. 1947, are repealed.

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HOUSE BILL NO. 41 1 1 (2) No member or employee of the division or any INTRODUCED BY MARKS 2 2 employee of the state shall may solicit or receive directly 3 or indirectly any commission, remunerations or gift 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY 4 4 whatsoever from any person or corporation having sold. 5 THE MONTANA ALCOHOLIC BEVERAGE CODE IN SUPPORT OF 5 selling, or offering liquor for sale to the state or RECODIFICATION; AMENDING SECTIONS 4-1-304, 4-2-102, 4-2-204, 6 6 division in-pursuance of pursuant to this code. 7 4-4-105. 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303, 7 (3) No person selling or offering for sale toy or purchasing liquor fromy the state liquor divisiony-shall may 8 4-4-401. 4-4-403. 4-4-404. 4-5-105. 4-6-102. 4-6-205. AND 8 9 4-6-401; REPEALING SECTIONS 4-1-305, 4-1-307, 4-4-106, AND 9 either directly or indirectly offer to pay any commission. 4-6-206, R.C.M. 1947." 10 10 profits or remunerations or make any gift to any member or 11 11 employee of the divisions or to any employee of the state. 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 or to anyone on behalf of such member or employee. 13 Section 1. Section 4-1-304, R.C.M. 1947, is amended to 13 (4) The prohibition contained in subsection (3) of 14 read as follows: 14 this section does not prohibit the division from receiving 15 "4-1-304. Liquor---division---employees---not---to--be 15 samples of liquor for the purpose of chemical testing, 16 interested-in-liquor-sales----unlawful-to--give--or--receive 16 subject to the following limitations: 17 gifty--commission--or--remuneration Prohibited acts within 17 manufacturer. (a) Each distiller, compounder. division. (1) No officer or employee of the liquor division. rectifier, importer, or wholesale distributory or any other 18 18 19 including those engaged in the sale of liquor at the various 19 person, firm, or corporation proposing to sell any 20 state liquor_stores, shall may be directly or indirectly 20 spirituous-liquors liquor to the Montana liquor division 21 interested or engaged in any other business or undertaking 21 shall submit, without cost to the division prior to the 22 dealing in liquor, whether as owner, part owner, partner, 22 original purchase, an analysis of each brand and may submit 23 member of syndicate, shareholder, agent, or employee, and a representative sample not exceeding twenty-five (25) fluid 23 24 whether for his own benefit or in a fiduciary capacity for 24 ounces of such merchandise to the board-fdivision-25 some other person. 25 (b) It--shall-be-the-duty-of-the-divisiony-when When a

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brand of liquor has been accepted for testing by the
 division, to the division shall forward the sample, unopened
 and in its entirety, to a qualified chemical laboratory for
 analysis.

5 (c) The division shall maintain written records of all 6 samples received <u>the such The</u> records shall show the brand 7 name, amount and from whom received, date received, the 8 laboratory or chemist to whom forwarded, the division's 9 action on the brand, and the person to whom delivered or 10 other final disposition of the sample.

11 (5) No liquor, wine, or other spirituous alcoholic 12 beverage shall may be withdrawn from the regular warehouse 13 inventory or from the state liquor stores of the Montana 14 liquor divisiony for any purpose whatsoever other than by 15 sale at the prevailing state retail pricesy or for 16 destroying damaged or defective merchandise. The division 17 shall maintain a written record including the type, brand, 18 and container sizet, number of bottles or other unitsta 19 signatures of witnessests and method of destruction or other 20 disposition of damaged or defective warehouse or state store 21 merchandise."

22 Section 2. Section 4-2-102, R.C.M. 1947, is amended to 23 read as follows:

24 "4-2-102. Containers to be sealed with official seal
25 -- opening package on liquor store premises forbidden. No

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spirits-or-wine-shall liquor may be sold to any purchasery
 except in a packager sealed with the official seal
 prescribed by this act code, which package shall may not be
 opened on the premises of a state store."

5 Section 3. Section 4-2-204, R.C.M. 1947, is amended to
6 read as follows:

7 "4-2-204. Department to sell to licensees -- posted price. The department is-hereby-authorized--to may sell 8 9 through its stores all kinds of liquor, wine, and cordials kept in stock to licensees licensed under this code at the 10 11 posted price thereof in the store in which said the liquor 12 is sold. All sales shall be upon a cash basis. The posted price as--used--herein-shall-mean means the retail price of 13 such liquor as fixed and determined by the department of 14 15 revenue and in addition thereto an excise and license tax as 16 provided in this act-provided code.*

17 Section 4. Section 4-4-105, R.C.M. 1947, is amended to 18 read as follows:

19 "4-4-105. Special permits to sell beer alcoholic 20 beverages -- application and issuance ----fee. (1)(a) Any 21 association or corporation conducting a picnic, convention, 22 fair, civic or community enterprise, or sporting eventy 23 shall in the discretion of the liquor division be entitled 24 to a special permit to sell beer to the patrons of such 25 event to be consumed within the enclosure wherein the event

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(b) The application of any such association or 2 corporation shall be presented $\frac{1}{10}$ days in advance and 3 shall describe the location of such enclosure wherein where 4 5 such event is to be held, the nature of such the event, and 6 the period when it is contemplated that the same event will 7 be held. Such The application shall be accompanied by the 8 amount of the permit fee hereinefter-provided.

9 (c) The permit issued to such association or 10 corporation shall-be is a special permity but shall not 11 authorize the sale of beer except starting one--+1+ day in 12 advance of the regular period when events are being held 13 upon such grounds and during the period described in such 14 the application, and for one-fl+ day thereafter.

15 The--permit-fee-shall-be-at-the-rate-of-fifteen-dollars 15 (\$15)-per-day-for-each-day-beer-is-soldy-or-to--be--sold--at 17 those--events--lasting-two-{2}-or-more-daysy-but-in-no-event 18 less-than-thirty-dollars-(\$30)y-hereby-fixed-as-the--minimum 19 fee-for-such-permits

20 (2) (a) Any A post of a nationally chartered veterans* 21 organization or ony a lodge of a recognized national 22 fraternal organization, not otherwise licensed under this 23 codev shall, in the discretion of the department, without 24 notice or hearing as provided in section 4-4-302, be 25 entitled to a special permit to sell beer or a special

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permit to sell all alcobolic beverages at such post or 2 lodge, to members and their quests only, to be consumed within the hall or building of such post or lodge-

4 (b) The application of such nationally chartered 5 veterans* organization or lodge of a recognized national fraternal organization shall describe the location of the 6 7 hall or building where the special permit shall will be used 8 and the date it will be used. Such-application-shall-he

9 accompanied-by-a-permit-fee-of-ten-dollars-(\$10)*

10 (c) The special permit issued shall be for a 11 twenty-four--{24}--hour 24-hour period only ending at 2 a.m. only_ and the department shall may not issue more than 12 13 tweive--f12; such permits to any such post or lodge during a 14 calendar year.*

15 Section 5. Section 4-4-201, R.C.M. 1947, is amended to 16 read as follows:

17 #4-4-201. Issuance of retail beer licenses -- limit on 18 number of beer retail licenses --- wine license amendments ---19 retail-license-fee off-oremises consumption. (1) Except as 20 otherwise provided by law, a license to sell beer at retaily 21 or beer and wine at retail pursuant-to-subsection-{2}, in accordance with the provisions of this act code and the 22 requiations rules of the department of--revenue, may be 23 24 issued to any person, firm, or corporation who shall-be is 25 approved by the department as a fit and proper person, firms

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1 or corporation to sell beerts providedy except that: 2 (a) the number of retail beer licenses that the 3 department may issue for premises situated within 4 incorporated cities and incorporated towns and within a 5 distance of five-(5) miles from the corporate limits of such 6 cities and towns shall be determined on the basis of 7 population as shown by the most recent official United 8 States census authorized by Congress congress, to--wit as 9 follows:

10 (i) in jn incorporated towns of five-hundred-(500) 11 inhabitants or less and within a distance of five-(5) miles 12 from the corporate limits of such towns, not more than one 13 (1) retail beer license which shall may not be used in 14 conjunction with a retail liquor all-beverages license;

15 <u>(ii)</u> in incorporated cities or incorporated towns of 16 more than five-hundred-(500) inhabitants and not over two 17 thousand--(2,000) inhabitants and within a distance of five 18 (5) miles from the corporate limits of such cities or towns, 19 one (1) beer license for each five-hundred-(500) inhabitants 20 which said-beer-license-shall may not be used in conjunction 21 with retail liquor all-beverages licenses;

22 (iii) in incorporated cities of over two-thousand 23 (2±000) inhabitants and within a distance of five-(5) miles 24 from the corporate limits of such cities, two (2) additional 25 retail beer licenses for the first two-thousand--(2±000)

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inhabitants or major fraction thereof and one the additional
 retail beer license for each additional two-thousand-t2±000+
 inhabitants which shall may not be used in conjunction with
 retail liquor all-beverages licenses*:

5 (b) The the number of the inhabitants in such cities 6 and towns, exclusive of the number of inhabitants residing 7 within a distance of five---{5} miles from the corporate 8 limits thereof, shall govern the number of retail beer 9 licenses that may be issued for use within such cities and 10 towns and within a distance of five-(5) miles from the corporate limits thereoft. providedy-that-where If two +2+ 11 or more incorporated municipalities are situated within a 12 13 distance of five-(5) miles from each other, the total number 14 of retail beer licenses that may be issued for use in both 15 of such municipalities and within a distance of five-(5) miles from their respective corporate limitsy shall be 16 17 determined on the basis of the combined populations of both 18 of such municipalities and shall may not exceed the 19 foregoing limitations. The said distance of five-f5t miles 20 from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from 21 22 the nearest entrance of the premises proposed for licensing 23 to the nearest corporate boundary of such city or town. 74

<u>(c) Retail retail</u> beer licenses of issue on the-date of-the-passage-and-approval-of-this-act <u>March 7. 1947.</u> and

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which are in excess of the foregoing limitations shall be
 renewable, but no new licenses shall may be issued in
 violation of such limitations <u>UNEESS-II-IS-ESTABLISHED-BN</u>
 <u>IHE-REEDRD-DF-A-EONTESTED-CASE-HEARING-THAT-AN-ADDITIONAL</u>
 <u>LICENSE-OR-LIGENSES-WOULD-REASONABLY-SERVE-THE-PUBLIE</u>
 <u>EONYENIENGE-CND-NEEESSITY</u>: providedy-that

7 (d) such limitations shall do not prevent the issuance 8 of a nontransferable and nonassignable retail beer license 9 any a post of a nationally chartered veterans. to organization or ony a lodge of a recognized national 10 fraternal organization, if such veterans, or fraternal 11 12 organization has been in existence for a period of five f5+ years or more prior to January 1, 1949#; 13

14 (e) the number of retail beer licenses that the department may issue for use at premises situated outside of 15 16 any incorporated city or incorporated town and outside of 17 the area within a distance of 5 miles from the corporated 18 limits thereof or for use at premises situated within any 19 unincorporated town shall be as determined by the department 20 in the exercise of its sound discretion, except that no 21 retail beer license may be issued for any premises so 22 situated unless the department determines that the issuance 23 of such license is required by public convenience and 24 necessity. (2) The cities and incorporated towns may enact 25

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1 ordinances defining certain areas in the cities and towns where alcoholic beverages may or may not be sold. No 2 ٦ incorporated city or incorporated town may by ordinance 4 restrict the number of licenses that the department may issuet_ provided-that However, no retail beer license may be 5 6 issued by the department for any premises situated within 7 any zone of such city or town wherein where the sale of beer 8 or liquor is prohibited by ordinance, a certified copy of which has been filed with the department. 9 The department 10 shall--have--discretion-to may deny the issuance of a retail 11 beer or all-beverages license if it shall---determine 12 determines that the premises proposed for licensing are off 13 regular police beats and cannot be properly policed by local 14 authorities. 15 tb)--The--number--of--retail--beer--licenses--that--the 16 department-may-issue-for-use-at-premises-situated-outside-of 17 any--incorporated-city--or-incorporated-town-and-outside-of 18 the-area-within-a--distance--of--five--(5)--miles--from-the 19 corporated--limits--thereofy-or-for-use-at-premises-situated 20 within-any-unincorporated-town-shall-be-as-determined-by-the department--in--the--exercise--of--its---sound---discretiont 21 22 providedy--that--no--retail-beer-license-shall-be-issued-for 23 eny--premises--so--situated--unless--the--department---shall 24 determine--that---the-issuance-of-such-license-is-required-by

25 public-convenience-and-necessityw

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1

t2)(3) A person holding a license to sell beer for 1 2 consumption on the premises at retail may apply to the 3 department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue 4 5 such amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the 6 7 premises would be supplementary to a restaurant or prepared R food prepared-food business. A person holding a 9 beer-and-wine license may sell wine for consumption on the 10 premises. He may buy wine only at retail from the 11 department. Nonretention of the beer license. for whatever 12 reason, shall mean automatic loss of the wine amendment 13 license.

 14
 (3)--The-annual-license-fee-for-a-license-to-sell--wine

 15
 on--the-premisesy-when-issued-as-an-amendment-to-a-beer-only

 16
 license-shall-be-two-hundred-dollars-(\$200)*

17 (4) A retail license to sell beer in the original 18 packages for off-premise off-premises consumption only may 19 be issued to any person, firms or corporation who shall-be 20 is approved by the department as a fit and proper person. 21 firms or corporation to sell beer and whose premises 22 proposed for licensing are operated as a bona fide grocery 23 store or a drugstore licensed as a pharmacy. The number of 24 such licenses that the department may issue shall is not be 25 limited by the provisions of subsection (1) of this section,

2 its sound discretion, and the department may in the exercise 3 of its sound discretion grant or deny any application for 4 any such license or suspend or revoke any such license for cause. The annual-license-fee-fee-a-license-to-setl-heer-at 5 retail-for-off-premises-consumption-shall-be-the-same-as-for 6 7 a-retail-beer-licenses" 8 Section 6. Section 4-4-202, R.C.M. 1947, is amended to 9 read as follows: 10 "4-4-202. All-beverage All-beverages license quota. 11 +++ Except as otherwise provided by law, a license to sell 12 liquor, beer, and wine at retail, an all-beverages license, 13 in accordance with the provisions of this code and the 14 regulations rules of the Montana department of-revenue, way 15 be issued to any person who shall-be is approved by the 16 department as a fit and proper person to sell such 17 beveragest provided except that: 18 tat(1) the number of all-beverages licenses that the

but shall be determined by the department in the exercise of

19 department may issue for premises situated within 20 incorporated cities and incorporated towns and within a 21 distance of five-(5) miles from the corporate limits of such 22 cities and towns shall be determined on the basis of 23 population as shown by the most recent official United 24 States census authorized by Congress <u>congress</u>, to--wit <u>as</u> 25 <u>follows</u>:

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<u>(a)</u> In <u>in</u> incorporated towns of five-hundred (500)
 inhabitants or less and within a distance of five-(5) miles
 from the corporate limits of such towns, not more than two
 (2) retail licenses;

5 (b) in incorporated cities or incorporated towns of 6 more than five-hundred (500) inhabitants and not over three 7 thousand-(32000) inhabitants and within a distance of five 8 (5) miles from the corporate limits of such cities and 9 towns, three (3) retail licenses for the first one-thousand 10 (11000) inhabitants and one (1) retail license for each 11 additional one-thousand-f1,000) inhabitants;

12 <u>(c)</u> in incorporated cities of over three-thousand 13 (3±000) inhabitants and within a distance of five-(5) miles 14 from the corporate limits thereof, five (5) retail licenses 15 for the first three-thousand (3±000) inhabitants and one (1) 16 retail license for each additional one-thousand-five-hundred 17 f1±500) inhabitants.

(2) The number of the inhabitants in such cities and 18 towns, exclusive of the number of inhabitants residing 19 within a distance of five--(5) miles from the corporate 20 limits thereof, shall govern the number of retail licenses 21 that may be issued for use within such cities and towns and 22 within a distance of five--t5t miles from the corporate 23 limits thereoft. providedy-howevery-that-where If two (2) or 24 25 more incorporated municipalities are situated within a

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1 distance of five-(5) miles from each other, the total number of retail licenses that may be issued for use in both of 2 3 such municipalities and within a distance of five-(5) miles from their respective corporate limitsy shall be determined 4 5 on the basis of the combined population of both of such municipalities and shall may not exceed the foregoing 6 limitations. Notwithstanding the preceding sentence, the 7 8 total population for determining the quota of a city may 9 includey with the city's populationy the population residing 10 outsidey but within five-{5} miles of the city limits in a 11 case where the number of persons residing outside but within 12 five-(5) miles of the city exceeds the number of persons 13 residing within the city. Such a determination may be made 14 only upon a special census taken by the department or its agent at the expense of the applicant for a license under 15 16 this section. The said distance of five-(5) miles from the 17 corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest 18 19 entrance of the premises proposed for licensing to the nearest corporate boundary of such the city or town. 20

21 (3) Retail all-beverages licenses of issue on the-date of-the-passage-and-approval-of-this-code March 7, 1947, and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall may be issued in violation of such limitations; UNLESS-IT-IS-ESTABLISHED-ON

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1	IHE-RECORD-DE-A-CONFESTED-EASE-HEARING-THAT-AN-ADDITIONAL
2	L IGENSEORLIGENSESWOULDREASONABLYSERVETHEPUBLI G
3	EBNYENIENCE-AND-NECESSITY, provided-that-such
4	(4) Such limitations shall do not prevent the issuance
5	of a nontransferable and nonassignable (as to ownership
6	only) retail license to any post of a nationally chartered
7	veterans' organization or any lodge of a recognized national
8	fraternal organization y if such veterans [,] or fraternal
9	organization has been in existence for a period of five-(5)
10	years or more prior to January 1, 1949. Noincorporated
11	cityorincorporate d- -townmayby-ordinance-restrict-the
12	number-of-licenses-thot-the-department-mayissuesprovided
13	thatnoretail-license-may-be-issued-by-the-department-for
14	any-premises-situated-within-any-zoneofacityortawn
15	whereinthesaleofliquor-is-prohibited-by-ordinancey-a
16	certified-copy-of-which-has-been-filed-with-thedepartment*
17	The-department-sholl-have-discretion-to-deny-the-issuance-of
18	aretaillicenseifit-shall-determine-that-the-premises
19	proposed-for-}icensing-areoffregularpolicebeatsand
20	cannot-be-property-policed-by-local-authorities.
21	(b)(5) the Ine number of retail all-beverages licenses
22	that the department may issue for use at premises situated
23	outside of any incorporated city or incorporated town and
24	outside of the area within a distance of five (5) miles from
25	the corporate limits thereof y-shall-be may not <u>be</u> more than

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one tit license for each seven--hundred---fifty---t750;
 population of the county after excluding the population of
 incorporated cities and incorporated towns in such county.#
 Section 7. Section 4-4-301; R.C.M. 1947; is amended to
 read as follows:

#4-4-301. Application for <u>all-beverages</u> license --6 penalty for false statements. [1] Prior to the issuance of 7 a an all-beverages license as herein provided in 4-4-202. 8 the applicant shall file with the Montane department of 9 revenue an application in writing, signed by the applicanty 10 and containing such information and statements relative to 11 the applicant and the premises where the alcoholic beverage 12 is to be soldy as may be required by the department. 13

(2) The application shall be verified by the affidavit 14 of the person making the same before a person authorized to 15 administer oaths. If any false statement is made in any 16 part of said the application, the applicanty or applicantsy 17 shall-be-deemed are quilty of a misdemeanory and upon 18 conviction thereof the license, if issued, shall be revoked 19 and the applicanty or applicantsy subjected to the penalties 20 provided by law." 21

22 Section 8. Section 4-4-302, R.C.M. 1947, is amended to 23 read as follows:

24 #4-4-302. Notice of application -- publication -25 protest. (1) When an application has been filed with the

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Hontone department of--revenue for a license to sell 1 alcoholic beverages at retaily or to transfer such license, 2 3 the department shall promptly publish in a newspaper of general circulation in the city, town, or county from whence 4 5 such which the application shall-come comesy a notice that 6 such applicant has made application for such licensey and 7 that protests against the issuance of a license to the 8 applicant will be heard at a time and place stated in the 9 notice, which shall be in the city of Helena, Montana. Notice of application for a new license shall be published 10 11 12 application for transfer of a license shall be published once a week for two-(2) consecutive weeks. Notice may be 13 14 substantially in the following form:

15 16

NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE

Notice is hereby given that on the day of 17 18 19... one (name of applicant) filed an application for a retail all-beverages license with the Montana department of 19 20 revenue, to be used at (describe location of premises where 21 +icense--is beverages are to be sold), and protests, if any there be, against the issuance of such license will be heard 22 at the hour of --H+ on the **** day of ****, 19**, at the 23 office of the Montana department of revenue, in Helena, 24 25 Montana.

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Dated 1 Signed 2 **ADMINISTRATOR** 3 [2] No license shall may be issued until on or after 4 the date set in the notice for hearing protests. Nor shall 5 may a license under this code be issued if the said--Hontana department of-revenue-shall-find finds from the evidence at 6 7 said the hearing that the welfare of the people residing in 8 the vicinity of the place for which such license is desired 9 will be adversely and seriously affectedy or that the 10 purposes of this code will not be carried out by the 11 issuance of such license. Each applicant shall. at the time 12 of filing his application, pay to the Hontone department of 13 revenues an amount sufficient to cover the costs of 14 publishing said the notice."

15 Section 9. Section 4-4-303, R.C.M. 1947, is amended to 16 read as follows:

17 *4-4-303. Investigation of application. Upon receipt 18 of a completed application for a license under this code. 19 accompanied by the necessary license fee and bond, the 20 department of---revenue shall within thirty--f30+ days 21 thereaftery-cause-to-be-made make a thorough investigation of all matters pertaining theretoy and shall determine 22 23 whether such applicant is qualified to receive a license and 24 his premises are suitable for the carrying on of the 25 businessy and whether the requirements of this code and the

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1 rules and-regulations promulgated by the department are met and complied with." 2 3 Section 10. Section 4-4-401, R.C.M. 1947, is amended to read as follows: 4 5 #4-4-401. Fees for licenses ----expiration--dates---regulation--by--cities-and-towns. [1](a) Each beer licensee, 6 7 under the provisions of this code, shall pay an annual license fee as follows: 8 9 (i) Each each "brewer," wherever located, whose 10 product is sold or offered for sale within the state, five hundred-dollars-(\$500); for each storage depot. \$400: 11 12 (ii) Each =wholesaler=_ four--hundred--dollars 13 **†\$4007;** 14 (iii) Each gach BEER *retailer*, two-hundred-dollars f\$200; with a wine license amendment • an additional \$200; 15 (iv) for a license to sell beer at retail for 16 17 off-premises consumption only. the same as a retail beer 18 license: 19 (v) Any any unit of a nationally chartered veterans* 20 organization, fifty-dollars-f\$50++. 21 All--licenses--issued--in--any-year-shall-expire-on-the 22 30th-day-of-June-at-midnight-of-such-year. 23 (b) A transfer of any such brewer's, wholesaler's, or 24 beer retailer's license may be made on application to the 25 Montana department of-revenue with the consent of the said -19-HB 41

1	department <u>s</u> provided that said <u>the</u> transferee shall-qualify
2	<u>qualifies</u> under this code. Thecitiesandincorporated
3	townsmayenoctordinances-defining-certain-areas-in-said
4	cities-or-towns-where-beer-may-or-may-not-be-soldproviding
5	that-said-ordinance-does-not-affect-the-limit-of-retail-beer
6	licenseswhich-shall-be-issued-by-the-Hontana-department-of
7	revenue-based-upon-the-population-of-the-cityortownand
8	saidcityortownshallfileacertified-copy-of-said
9	ordinance-with-the-Montana-department-of-revenues
10	<u>(c)</u> This code shall not be construed or interpreted so
11	as to repeal, amend, modify, change, or alter any provisions
12	of this code which require beer manufactured outside of the
13	state-of Montana and shipped into Montana to be consigned to
14	and shipped to a licensed wholesaler and by him unloaded
15	into his warehouse or subwarehouse in Nontana.
16	(2) The permit fee under 4-4-105(1) is computed at the
17	rate of \$15 a day for each day beer is sold at those events
18	lasting 2 or more days but in no case be less than \$30.
19	(3) The permit fee under 4-4-105(2) is \$10 for the
20	sale of beer only or \$20 for the sale of all alcoholic
21	beverages.
22	(4) Passenger carrier licenses shall be issued upon
23	payment by the applicant of an annual license fee in the sum
24	<u>of \$300.</u>
25	(5) The annual license fee for a license to sell wine

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1	on the premises, when issued as an amendment to a beer-only
2	licenses_is_\$200.
3	16) Each licensee licensed under the quotas of 4-4-202
4	shall pay an annual license fee as follows:
5	(a) except as hereinafter provided, for each license
6	outsideof_incorporated_cities_and_incorporated_towns_or_in
7	incorporated cities and incorporated towns with a population
8	of less than 2.000. \$400:
9	(b) except as hereinafter provided, for each license
10	in incorporated cities with a population of more than 2:000
11	and less than 5.000. \$3001 or within a distance of 5 miles
12	thereof, measured in a straight line from the nearest
13	entrance of the premises to be licensed to the nearest
14	boundary of such city: \$500:
15	(c) except as hereinafter provided. for each license
16	in incorporated cities with a population of more than 5,000
17	and less than 10,000 or within a distance of 5 miles
18	<u>thereof</u> , measured in a straight line from the nearest
19	entrance of the premises to be licensed to the nearest
20	boundary of such city: \$650:
21	(d) for each license in incorporated cities with a
22	population of 10,000 or more, or within a distance of 5
23	niles thereof, measured in a straight line from thenearest
24	<u>entrance of the premises to be licensed to the nearest</u>
25	boundary of such city: \$800:

1	(e) the distance of 5 miles from the corporate limits
2	of any incorporated cities and incorporated towns is
3	measured in a straight line from the nearest entrance of the
4	premises to be licensed to the nearest boundary of such city
5	or town: and where the premises of the applicant to be
6	licensed are situated within 5 miles of the corporate
7	boundaries of two or more incorporated cities or
8	incorporated towns of different populations, the license fee
9	chargeable by the larger incorporated city or incorporated
10	town applies and shall be paid by the _applicant. When the
11	premises of the applicant to be licensed are situated within
12	an incorporated town or incorporated city and any portion of
13	the incorporated town or incorporated city is without a
14	5-mile limit, the license_fee_chargeable_by_the_smaller
15	incorporated_town_or_incorporated_city_applies_and_shall_be
16	paid by the applicant.
17	(f) an applicant for the issuance of an original
18	license to be located in areas described in paragraph (d) of
19	this subsection shall pay a one-time original license fee of
20	\$20+000 for any such license issued. The one-time license
21	fee of \$20,000 shall not apply to any transfer or renewal of
22	a license duly issued prior to July 1. 1974. All licenses.
23	however, are subject to the annual renewal fee of \$800.
24	(7) The license fees herein provided for are exclusive
25	of and in addition to other license fees chargeable in

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1	Montana for the sale of liquor, beer, and malt beverages."
2	Section 11. Section 4-4-403, R.C.M. 1947, is amended
3	to read as follows:
4	*4-4-403• License-fee-for-retsil-sale-of-liquor-withi n
5	andwithoutcitiesand-towns-of-designated-populations
6	census <u>Census</u> of population. Each-licenseelicensedunder
7	thequotasofsection-4-4-202-shall-pay-an-annual-license
8	fee-os-follows;
9	ta)Except-as-hereinafter-providedy-foreachlicense
10	outside-of-incorporated-cities-and-incorporated-townsv-or-in
11	incorporated-cities-and-incorporated-towns-with-a-population
12	of}essthantwothousand{2y008}y-four-hundred-dollars
13	{\$400}-per-annum}
14	{b}Except-as-hereinafter-providedy-foreachlicense
15	inincorporatedcitieswith-a-population-of-more-than-two
16	thousand-{2y000}-and-less-than-five-thousand-{5y000}ythree
17	hund red-(\$300+00)-dollars-per-annum;-or-within-a-distance-of
18	five-t5}-miles-thereofy-measured-in-a-straight-line-from-the
19	nearestentranceofthepremisestobe-licensed-to-the
20	nearest-boundary-of-such-cityy-five-hundreddollars{\$500}
21	per-annum;
22	{c}Exceptashereinafter-providedy-for-each-license
23	in-incorporated-cities-with-a-population-of-morethanfive
24	thousand{5y000}andlessthan-ten-thousand-{l0y000}y-or
25	within-s-distance-of-five-{5}-miles-thereofy-measuredina

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L	straightlinefrom-the-nearest-entrance-of-the-premises-to
Z	be-}icensed-tothenearestboundaryofsuchcityysix
3	hundred-fifty-do llars-(\$650)-per-annum1
4	{d}Foreachlicenseinincorporated-cities-with-a
5	population-of-ten-thousand-{18v808}-ormorevorwithina
6	distanceoffive-{5}-miles-thereofy-measured-in-a-straight
7	line-fromthemearestentranceofthepremisestobe
8	licensed-to-the-nearest-houndary-of-such-cityy-eight-hundred
9	dollars-(\$800)-per-annum;
10	{e}Foreachrailway-system-in-the-state-of-Montanav
11	three-hundred-(\$300+00}-dollars-per-annum;
12	{f}Ťhe-distance-of-five-{5}-miles-from-thecorporate
13	limitsofanyincorporatedcities-and-incorporated-towns
14	shall-be-measuredinastraightlinefromthenearest
15	entranceofthepremisestobelicensed-to-the-nearest
16	boundary-of-such-city-or-town;-and-where-the-premises-of-the
17	applicant-to-be-licensed-are-situated-within-five-{5}miles
18	ofthe-corporate-boundaries-of-two-(2)-or-more-incorporated
19	cities-or-incorporated-towns-ofdifferentpopulationsthe
20	licensechargeablebythelargerincorporatedcity-or
21	incorporated-town-shall-apply-and-be-paid-by-theapplicant;
22	providedyhoweverythat-when-the-premises-of-the-applicant
23	to-be-licensed-are-situated-within-an-incorporatedtownor
24	incorporatedcity-and-any-portion-of-said-incorporated-town
25	or-incorporated-city-be-without-saidfive{5}mile-limit

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1	thenthe-license-fee-chargeoble-by-the-smaller-incorporated
2	town-or-incorporated-city-shall-apply-and-bepaidbysaid
3	applicant.
4	An-applicent-for-the-issuance-of-an-original-license-to
5	belocatedinareasdescribedin-subsection-{d}-of-this
6	section-sholl-pay-a-one-time-original-license-fee-oftwenty
7	thousanddollars-(\$20y000)-for-any-such-license-issuedy-The
8	saidone-timelicensafeeoftwentythousanddollars
9	{\$20,800}shallnotapply-to-any-transfer-or-renewal-of-a
10	license-duly-issued-prior-to-July-ly-1974sAll-licensesv
11	howeverv-shall-be-subject-to-the-annual-renewal-fee-of-eight
12	hundred-dollars-(\$800)+
13	Thelicensefees-herein-provided-for-are-exclusive-of
14	and-in-addition-to-otherlicense-feeschargeobleinthe
15	stateofMontanaforthesaleof-liquory-beer-and-malt
16	beverages.
17	The census taken under the direction of Congress
18	<u>congress</u> ofthe-United-States-in-the-year-nineteen-hundred
19	and-thirtyy-and-every-ten-yearsthereaftery shall be the
20	basis upon which the respective populations of said <u>the</u>
21	municipalities shall be determinedy unless a direct
22	enumeration of the inhabitants thereof-be <u>is</u> made by the
23	state or municipal corporation, in which case such later
34	direct composition shall constitute such basis securided

these the light set for the second a shut the second termine second and

1

24 direct enumeration shall constitute such basisys providedy
 25 howevery-that-no No census hereafter taken shall may be such

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1 basis until it shall--have-been is published under the 2 authority under which the same shall-be is taken, and then 3 its effect shall be prospective only from the date of such 4 publication be-prospective-only-and-providedy-furthery-that 5 none-of-the-provisions-of--this--act--shall-be--deemed--to 6 operate-retroactively."

7 Section 12. Section 4-4-404, R.C.M. 1947, is amended 8 to read as follows:

9 "4-4-404. Fee for and expiration of licenses. 10 Effective Each July 1, 1944, and at-the-same-date-of-each 11 year-thereaftery the Nontana department of--revenue shall 12 issue licenses to brewers, wholesalers, or retailers or for 13 the retail sale of alcoholic beverages liquor on an annual 14 basisy and at such fees as are prescribed by law, and such licenses shall expire at midnight of June 30th 30 of the 15 succeeding year. The department shall notify each applicant 16 for an original license or renewal that he should inform 17 himself of applicable provisions of federal law which may 18 19 require a permit from a federal agency."

20 Section 13. Section 4-5-105, R.C.M. 1947, is amended
21 to read as follows:

22 *4-5-105. Fee to be charged. The county clerk and 23 recorders shall charge and collect a fee of one-dollar-and 24 fifty-cents-(\$1.50) from the applicant at the time the 25 application is prepared <u>is and One-dollar-(\$1)</u> thereof shall

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Ł be transmitted to the Montana department of--revenue along 2 with the application and shall be used to defray the cost of з administering and executing the provisions of this code 4 chapter. Any surplus shall revert to the general fund of 5 the--state of Montana. The remaining fifty-cents-(\$+50) 50 cents shall be paid into the general fund of the county to 6 7 defray the county's costs in administering this program." 8 Section 14. Section 4-6-102, R.C.N. 1947, is amended Q to read as follows:

10 #4-6-102. Sale of liquor not purchased from state 11 store forbidden -- penalty. It shall-be is unlawful for any 12 licensee to sell or keep for sale and/or have on his 13 premises for any purpose whatevery any liquor except that 14 purchased from the state liquor store, and any licensee 15 found in possession of or selling and keeping for sale, any 16 liquor which was not purchased from a state liquor store. 17 shall, upon conviction, be fined punished by a fine of not 18 less than five--hundred--dollars--(\$500)--nor or more than 19 fifteen--hundred--dollars--(\$1,500), or be punished by 20 imprisonment for not less than three-f3t months nor or more 21 than one-fly yeary or by both such fine and imprisonment, 22 and if the department shall-be is satisfied that any such 23 liquor was knowingly sold or kept for sale within the 24 licensed premises by such the licenseev or by his agents. 25 servants, or employees, it-shall-be-mandatory-that-said the

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department <u>shall</u> immediately revoke the license of said

2 ticensee."

1

3 Section 15. Section 4-6-205, R.C.M. 1947, is amended
4 to read as follows:

"4-6-205. Unlawful alcoholic beverage -- seizure --5 forfeiture. Any investigator or peace officer who finds an 6 7 alcoholic beverage, which he has reasonable cause to believe R is had or kept by any person in violation of the provisions 9 of this code, may forthwith seize and remove the same and the packages in which the alcoholic beverage is kept, and 10 11 upon conviction of the person for a violation of any provision of this--section 4-3-102, the alcoholic beverage 12 and all packages containing the same shall, in addition to 13 any other penalty prescribed by this code, ipso facto be 14 15 forfeited to the state of Montana."

16 Section 16. Section 4-6~401, R.C.M. 1947, is amended 17 to read as follows:

#4-6-401. Premises where liquor illegally sold public 18 19 nuisance. Any room, house, building, boat, vehicle, 20 structure or place where alcoholic beverages are knowingly 21 manufactured, sold, or barteredy in violation of this code 22 or section 94-8-107 and all property knowingly kept and used 23 in maintaining the same is hereby declared to be a public 24 nuisance₁ and any person who maintains such a nuisance shall 25 be quilty of a misdemeanory and upon conviction thereof

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- shall be fined not less than one-hundred-dollars-(\$100+00)+
 nor or more than five--hundred-dollars--(\$500) and by
 imprisonment be imprisoned not less than thirty 30 daysy-nor
 or more than six & months."
 Section 17. Repealer. Sections 4-1-305, 4-1-307,
- 6 4-4-106, and 4-6-206, R.C.M. 1947, are repealed.

-End-