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a bill por an act entitegd: maf act to bevise and clabify the montana alcoholic beyerage code in suppoat of RECODIPICATION; ABERDIEG SECTIONS 4-1-304, 4-2-102. 4-2-204. 4-4-105, 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303, 4-4-401, 4-4-403. 4-4-404, 4-5-105, 4-6-102, 4-6-205. AND 4-6-401; gEPEALING SECTIORS 4-1-305, 4-1-307, 4-4-106. AMD 4-6-206. E.C..
be It enacted be the legisiature of the state of hohtaha:
Section 1. Section 4-1-304, R.C. A. 1947, is aeended to read as follous:

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\section*{114-1-304. Liquex-di*icien--enployee日-net- to-be}


``` 1igision. (1) No officer or employee of the liquor division including those engaged in the sale of ligqor at the various state liguor_stores, ay be directiy or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, nember of syndicate, shareholder, agent \(\boldsymbol{q}_{2}\) or employeet and whether for bis ovo beaefit or in a fiduciary capacity for some other person.
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(2) No nember or employee of the division or any employee of the state ohall may solicit or receive directly or indirectly any consission, remuneration or gift Whatsoever Eron any person or corporation baving sold. selling or offering liquor for sale to the state or division
(3) No person selling or offering for sale tor or
 either directly or indirectly offer to pay any conission, profith or remunerationt or make any gift to any menber or enployee of the division to any employee of the state, or to anyone on behalf of such nenber or enployee.
(4) The prohibition contained in subsection (3) of this section does not prohibit the division from receiving saples of liquor for the purpose of cheaical testing, subject to the following limitations:
(a) Each Eanufacturer, aistiller, conpounder, rectifier, importer, or wholesale distributory or any other person, fira, or corporation proposing to sell any spifituens-iquefs liguger to the montana liquor division shall subuit, without cost to the division prior to the original purchase, an analpsis of each brand and may subuit a representative sample not exceeding woty-fine-425t fluid ounces of such merchandise to the beaflivisionay.
(h) ft-shall-be-the-faty-ot-the-aixiciou, when Ihen a

1 brand of liquor has been accepted for testing by the 2 division, the division shall formard the sample, unopened 3 and in its entirety, to a qualified chenical laboratory for 4 analysis.
(c) The division shall maintain written records of all saples receivedta rhe records shall show the brand nane, anount and from whon received, date received, the laboratory or chenist to whon forwarded, the division's action on the brand, and the person to vhon delivered or other final disposition of the sample
(5) No liquor, wine, or other epjeituous alcoholic beverage ghati nay be vithdravifroa the regular warehouse inventory or from the state liquor stores of the montana liquor division for any purpose whateofet other than by sale at the prevailing state retail pricest or for destroying damayed or defective merchandise. The division shall maintain a written record including the type. brand. and container sizets number of bottles or other anitste signatures of vitnessesta and netbod of destruction or other disposition of dawaged or defectipe warehouse or state store erchandise."

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

44-2-102. Containers to be sealed with official seal - opening package on liquor store premises forbidden. No

[^0]is held.
fbl The application of any such association or corporation shall be presented ten-flot days in aduance and shall describe the location of such enclosure therein ybere such event is to be held, the nature of got the event, and the period when it is contemplated that the eyent will be held. Gueh The application shall be accompanied by the anount of the perait fee hereimafor-prowed.

1Cl. The permit issued to such association or corporation stalt be is a special peraity but shall not authorize the sale of beer ercept starting eat-f $1+$ day in advance of the regular period when events are being held upon such grounds and during the period described in guet the application and for one-f17 day thereafter.





(2) fal hay a post of a nationally chartered veterans' organization or arf a lodge of a recognized national fraternal organization not otherwise liceased under this coder shall, in the discretion of the department, without notice or hearing as provided in 4-4-302, be entitled to a special permit to sell beer of_a_special
permit to sell all alcoholic beverages at such post or lodge, to neabers and their grests onlif, 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 ofganization shall describe the location of the hall or building where the special pernit ohatu will be used and the date it will be used. freh-appliattion-whalt-be

(C) The special persit issued shall be for a
 ontrs and the department ehall nay not issue more than twelqe-t12f such persits to any such post or lodge during a calendar year:"

Section 5. Section 4-4-201. R.C. B. 1947, is anended to read as follows:
"4-4-201. Issuance of retail beer licenses - liait on number of teef retail licenses - wine licease amendments -
 otherwise provided by lam, a license to sell beer at retaily
 accordance with the provisions of this aet code and the fequlation ciples of the department ef-weque, may be issued to any person, firm or corporation who is approved by the department as a fit and proper person, firma
or corporation to sell beerth except that：
（a）the number of retail beer licenses that the department aly issue for premises situated within incorporated cities and incorporated touns and within a aistance of miles fron the corporate liaits of such cities and tovas shall be deternined on the basis of population as shown by the most recent official onited States census authorized by cergrese congress，to－mit as follous：
 inhabitants or less and within a distance of fie－t5t miles from the corporate limits of such towns，bot more than one ＋4 retail beer license which maty not be used in conjunction with a retail tiquex all－bererages license；
filil in incorporated cities or incorporated tovas of wore than fifernot（500t iahabitants and not cyer twe
 f $5+$ miles from the corporate limits of such cities or towns． one fy beer license for each five－mudfed－ 400 ）inhabitants which eaid nay not be used in conjunction with retail liquet all－beverages licenses；
（iii）in incorporated cities of over wo－thersand
 from the corporate limits of such cities，two tz子 additional retail beer licenses for the first two－－thowsata－ $\mathbf{4 2} 000+$
inhahitants or wajor fraction thereof and one f＋子 additional retail beer license for each additional inhabitants which sbatl may not be used in conjunction with retail allobeyerages licensesti
（bl The the oumber of the inhabitants in such cities and towns，exclusive of the nuaber of inhabitants residing within a distance of wiles from the corporate limits thereof，shall govern the nubber of retail beer licenses that may be issued for use within such cities and tovns and within a distance of five－f5t ziles from the corporate limits thereofts Previdear－that－where If two f子t or more incorporated muncipalities are situated within a distance of $+5+$ miles from each other，the total number of retail beer licenses that may be issued for use in both of such mancipalities and vithin a distance of fure－f5子四les from their respective corporate liaitsf shall be determined on the basis of the combined popolations of both of such municipalities and stat may not exceed the foregoing linitations．The distance of five－f5t miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or toun．
（1c）Retil retail beer licenses of issue on the date

which are in excess of the foregoing linitations shall be renewable, but no ney licenses ghall gay be issued in violation of such limitations;
(d) such limitations shatt do not prevent the issuance of a nontransferable and nonassignable retail beer license to amy a post of a nationally chartered veterans: organization or a\#\# $\underline{d}$ lodge of a recognized national fraternal organizationt if such veterans; or fraternal organization has been in existence for a period of fipe f5t years or more prior to January 1. 1949 in
fel the nabber of retail beer licenses that the departgent \#ar issue for use at prenises situated ontside of any_incorporated city or incorporated toun and optside_of the area_rithina_distance of 5 illes fron_the corporated limits thereof_or for use_at presises situated uithin anr uniacorporated tovn shall be_as deterniged by the departnent in the exercise of its sound discretiona_except that no retail_beer_license_nar_be_issued_for any premises_so Situated_unless the departaent deternines that the issuance of such license_is reguired_by public convenience_and necessity.
121 The cities and incorporated tovns may enact ordinances defining certain areas in the cities and touns where_alcoholic beqerages_may _or_qay_not_be_sold. No incorporated city or incorporated toun may by ordinance
restrict the number of licenses that the department may issuet: feovided hat Hoyeyer no retail license my be issued by the department for any preaises situated vithin any zone of such city or town whenik there the sale of beer or liguor is prohibited by ordinance, a certified copy of which has been filed with the department. The department Shall-haromiceretien-te nay deny the issuance of a retail beer or dil-beverages license if it thelt-deternien detergines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.






 Pfovided, that-ne-fetil-beet-jieensemhall-be-iosued-fot



+2+132 $A$ person holding a license to sell beer for consumption on the premises at retail may apply to the departrent for an amendment to the licease peraiting the


#### Abstract

holder to sell wine as well as beer. The division ay issue such awendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consuaption on the premises roula be supplementary to a restaurant or preparee prepared-food business. A person holding a beer-and-wine license may sell wine for consusption on the preaises. He way buy wine only at retail from the department. Nonretention of the beer license, for whatever reason, shall mean automatic loss of the wine amendment liceuse.    (4) A retail license to sell beer in the original packages for off-pfetion off-prepises consumption only may be issued to any person. firm, or corporation who belle is approved by the department as a fit and proper person. fires or corporation to sell beer and whose premises proposed for licensing are operated as bona fide grocery store or a drugstore licensed as a pharmacy. The nubber of such licenses that the department may issue shat is not be linited by the provisions of subsection (1) of this sectiont but shail be determined by the department in the exercise of its sound discretion, and the department way in the exercise of its sound discretion grant or deny any application for


any such license or suspend or revoke any such license sor

 2-retail beef-ligenfor"

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

M-4-202. Aif-bereface All-beverages license guota. 44 Except as othervise provided by law, a license to sell liquor, beer, and wine at retail, an all-beverages license, in accordance with the provisions of this code and the
 be issued to any person who shatl-be is approved by the department as a fit and proper person to sell such beveragesta fforided. except that:
faf(11 the number of all-beverages licenses that the department ay issue for premises situated within incorporated cities and incorporated town and within a distance of cities and touns shall be deternined ou the basis of population as shown by the most recent official united states census authorized by fongrese congress, wo-it as follous:
(al I\# it incorporated touns of fite-du\#ded-f5007 inhahitants or less and within a distance of fire-tht miles from the corporate limits of such towns, not wore than two

## t2t retail licenses;

(b) in incorporated cities or incorporated towns of qore than firewndred- $500+$ inhabitants and not over three
 +5t ailes frow the corporate limits of such cities and towns, three f3t retail licenses for the first eqe-thourand $+1,000$ inhabitants and one $+4+$ retail license for each additional eno theyenad $-1,000+$ inhabitants;
(c) in incorporated cities of over theee-theueand +3, 0004 inhabitants and within a distance of files from the corporate linits thereof, five f fr retail licenses



(2) The number of the inhabitants in such cities and tovas, exclusive of the number of inhabitants residing within a distance of miles from the corporate limits thereof, shall govern the numer of retail licenses that may be issued for use within such cities and tovns and within a distance of ailes from the corporate linits thereaffa peovided, howevex, that where If two fz or more incorporated anicipalities are situated within a distance of miles from each other, the total number of retail licenses that way be issued for use in both of such municipalities and within a distance of fre-ft wiles
from their respective corporate limits, shall be determined on the basis of the combined population of botb of such muicipalities and Eay not exceed the foregoing linitations. Notwithstanding the preceding sentence, the total population for deteraining the quota of a city may includey with the city's population the population residing outsider but within case where the nuber of persons residing outside but within five-f5t miles of the city exceeds the number of persons residing within the city. Such a determíation may be made only upon a special census taken by the department or its agent at the expense of the applicant for a license unden this section. The of distance of five- files fron the corporate liaits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the preaises proposed for licensing to the nearest corporate boundary of eath the city or town.

132 Retail all-beverages licenses of issue on the
 Which are in excess of the foregoing linitations shall be renerable, but no neu licenses etall nay be issued in violation of such limitationste peovidedetact
(4) Such limitations ghatt do not prevent the issuance of a nontransferable and nonassiqnable fas to ownership only) retail license to any post of a nationally chartered
veterans" organization or any lodge of a recognized national fraternal organization if such veterans" or fraternal organization has been in existence for a period of firert years or wore prior to January T. 1949. *e ineoferat




 ceftified-copy-of-which-hze-been-filed-with-tho-depafterth
 - F-
 eatnet-be-propexiy-polieed-by-lecal-athtoritient
(b) (5) the The number of retail all-beverages licenses that the department an issue for use at preaises situated outside of any incorporated city or incorporated tovn and outside of the area within a distance of five-f $5+$ iles fron the corporate linits thereof, gan not be more than
 population of the countyr after excluding the population of incorporated cities and incorporated towns in such connty."
Section 7. Section 4-4-301, B.C.A. 1947, is anended to read as follows:

4-4-301. Application for all-beyerages license -
penalty for false statements. 112 Prior to the issuance of $a$ an all-bererages licerse as moreit provided in_4-4-202. the applicant shall file vith the nentema fepartment ferente an application in writing, signed by the applicant and containing such information and statements relative to the applicant and the preaises where the alcoholic beverage is to be soldr as map bequired by the departaent.
(21 The application shall be verified by the affidarit of the person making the same before a person authorized to adainister oaths. If any false statenent is made in any part of eat the application, the applicant or applicantsp
 conviction thereof the license, if issued, shall be revoked and the applicant, or applicantsy subjected to the penalties provided by law."

Section 8. Section 4-4-302, R.C. ©. 1947, is asended to read as follows:
"4-4-302. Notice of application - pablication protest. [11 When an appication has been filed with the mentanz department of forente for a license to sell alcoholic beverages at retaily or to transfer such license, the department shall promptiy publish in a newspaper of geaeral cicculation in the city, toun or county fromere suoh wich the application ohatioone coness a notice that such applicant has ade application for such licenser and

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that protests against the issuance of a license to the applicant will be heard at time and place stated in the notice, which shall be ia the city of Helena, Montana. Notice of application for a new license shall be published once a week for feur-(4) consecutive weeks. Notice of application for transfer of a license shall be published once a week for \(\quad\) ( \(2+\) consecutive weeks. Notice may be substantially in the following form:
NOTICE OP APRLICATION FOR RETAIL
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## alt-beverages license

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Notice is hereby given that on the .... day of ..... 19... One (name of applicant) filed an application for a retail all-beverages license with the sontana department of revenue, to be used at (describe location of preaises uhere tio beqeraqes are 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 sontana department of revenuet in Helena, Montana.
Dated ....
Signed ......
AdMInISTRATOA
121 No license matt may be issued until on or after the date set in the notice for hearing protests. Nor gay a license under this code be issued if the gata-nentata departitent ef-reqente-ghatl-find finds from the evidence at
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sain the hearing that the welfare of the people residing in
the vicinity of the place for which such license is desired
will be adversely and seriously affected, or that the
purposes of this code will not be carried out by the
issuance of such license. Each applicant shall, at the time
of filing his application, pay to the fontana department of
fenuer at amount sufficient to cover the costs of
publishing gaia the notice."
    Section 9. Section 4-4-303, B.C.8. 1947. is amended to
read as follows:
    "4-4-303. Tavestigation of application. Upon receipt
of a completed application for a license under this code.
accompanied by the necessary license fee wn-boma, the
department ef m-menwe shall within thixty--40子 days
thereffer, eutse bevere a thorough investigation
of all matters pertaining theretor and shall determine
whether such applicant is qualified to receive a license and
his premises are suitable for the carrying on of the
business, and whether the requirements of this code and the
rules andmegulations promulgated by the departeent are uet
and complied with."
    Section 10. Section 4-4-401, R.C.H. 1947, is amended
to read as follows:
    "4-4-401. Fees for licenses
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under the provisions of this code, shall pay an anfual license fee as follous:
fil Eaft each Horewer, wherever located, whose product is sold or offered for sale within the state, fine hutafed-ailafe-t $\$ 5004$; for each storage_iepote $\$ 400$;
 +\$4007:
 with_a wige_license amendnent cean additional $\$ 200_{i}$
(iㅂ) for a license to sell_beer_at retail for off-gremises consumption_onlye the same as a retain beer Iicense:
(Y) Hif any unit of a nationally chartered veterans' organization $_{4}$ fifty-doltats-( $\$ 50$ )t.


(bl A transfer of any buct brewers, yholesaler's. or beer retailer's license way be made on application to the Homtan department ef-refenue with the consent of the said departaente providea that the transferee ohall-gualify qualifies under this code. The-eitieg-add-incefperated







f(c) this code shall not be construed or intertreted so as to repeal, amend, modify, change, or alter any provisions of this code which require beer manofactured outside of the stat-af Montana and shipped into sontana to be consigned to and shipped to a licensed wholesaler and by him unloaded into his warehouse or subwarehouse in Montana.
(21. The_per it fee under_4-4-105112 is_conputed_at the rate of $\$ 15$ a day for each_day beer is_soldat those_events lasting_2 or_more days but in_no case be less than $\$ 30$.
(3) The per wit fee under_4=4-105121 is_ $\$ 10$ for the Sale of teer only or $\$ 20$ for the sale of ali_alcoholic beqeagaes.
14) _passenger carcier licenses__shal1_be_issued_upon paynent by the applicant of an annual iicense fee_in the sur of $\leq 300$.

152 The_angual_license fee for a license_to sely yine on_the_premises, when_issued as an a mendrent_to_a_beer_only license, is_ $\$ 200$.
(f) Each_licensee licensed under_the_guotas_of_4-4-202 shali_Eaq an_annual_license_fee_as_follous:
fal =except_as_hereinafter prouided, for each _icense outsife of incorporated cities and incorporated touns or in
incorporatea_cities_and_incorgorated towns. ith a population of_1ess than_2.0002 $\$ 400$ :

1bl_except as hereinafter_provided. for each_license in_incorporated_cities uith_a_population_of_rose_than_2_000 and less than 5. 000 e $\$ 300$ i or uithin a distance of 5 miles theregt, measuced in_a_straight line from the nearest entrance_of the prenises_to be_licensed to_the_nearest boundary of such city f500:
(C) except as hereinafter proqided.for each license in incorporated cities vith a population of nore than 5.000 and less_than_10.000 or yithin a distance of 5 mies thereofe neasured in_a_straight line from_the_nearest entrance_of the_ premises__to_be licensed to the nearest boundary of such cityc \$55ci
(d) for each_license_in_incorporated_cities__rith_a population of 10,000 or mores or within a distance of 5 miles thereof 2 - measured in a straight line fronthe_nearest entrance_of the premises_to be_licensed_to_thenearest boundacy of such_city $\times$ 5800:
fel_the distance of 5-miles_fror_the_corporate_ liuits of _-any incorporated cities_and incorgorated_torns_is neasured in_a_straight_line from the nearest entrarce of the greaisesto be_licensed_to the nearest boundary of such city or towntand_herethe_preaises_of the applicant to be Licensed_arte_situated within_5_milas_of the corporate

[^1] £еe-as-follews:



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and-in-zadition-0-0ther-licence-foec-ehargeable-in-the
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    The census taken under the direction of fetgreae
Congress ef-the-gmited-Stabec-iq-the-yeak mimeteen-hwadted
and-thifty%-afd-0vefy-ten-reafc-thereaftery shall be the
basis upon which the respective populations of eaid the
#unicipalities shall be determined, anless a direct
enumeration of the inhabitants theolsmade by the
state or municipal corporation, in which case such later direct enumeration sball constitute such basist. propidedr Hewefer that-ne 트 census bereafter taken thaly may be such basis until it shatl-have is published under the authority under which the same shatze is taken, and then its effect shall be prospectiye only fro the date of such publication
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Section 12. Section 4-4-404, R.C.B. 1947, is amended to read as follows:
"4-4-404. Fee for and expiration of licenses. fffectife Each July 1, 4944, a甘d-at the-samedate-of-each Feaf-thereaftefy the Hentana department of-cerente shall issue licenses to brexers, wholesalecse or retailers or for the retail sale of alcoholic beverages $\$$ iquez on an annual basisy and at such fees as are prescribed by law, and such licenses shall expire at midnight of Jure 30th 30 of the succeeding year. The department shall notify each applicant for an original license or renewal that he should inform himself of applicable provisions of federal law wich may require a permit fron a federal agency."

Section 13. Section 4-5-105, A.C.A. 1947, is amended to read as follows:
m4-5-105. Fee to be charged. The county clerk and recorders shail charge and collect a fee of ope-dellat-and fiterent $\$ \$ 1.50+$ from the applicant at the tiae the application is preparedvi and ene-totwar-f\$1t thereof shall be transmitted to the mentant department of-feneatalong with the application and shall be used to defray the cost of adainistering and executing the provisions of this eode chapter. Any surplus shall revert to the general fund of the-state of Montana, The remaining fifty-eetts- 45.50 ) 50 cents shall be paid into the general fund of the county to
defray the county's costs in administering this program."
Section 14. Saction 4-6-102, R.C.M. 1947, is ameaded to read as follows:
"4-6-102. Sale of liquor not purchased from state store fortidden - penalty. It ghati-be is unladul for any licensee to sell or keep for sale have on his premises for any purpose whatever, any liquor except that parchased from the state liquor store, and any licensee found in possession of or selling and keeping for saler any liquor wich was not purchased froll a state liquor store, shall. upon conviction, be punished by a fine of not


 than efe-fy yeary or by both such fine and inprisonment, and if the department shall-be is satisfied that any such liquor was knowingly sold or kept for sale yithin the licensed premises by such the licenseef or by his agents, servants or employees, it-skat beadatofy thatay the department shall imediately revoke the license efode tiencee."

Section 15. Section 4-6-205, R.C.4. 1947, is amended to read as follous:
"4-6-205. Unlawful alcoholic beverage - seizure forfeiture. any investigator or peace officer who fints an

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alcoholic beveraget which te has reasonable cause to believe
is had or kert by any person in violation of the provisions
of this coder may forthuiti seize and remove the same and
the packages in which the alcoholic beverage is kept, and
upon conviction of the person for a violation of any
provision of 4-3-102. the alcoholic beverage
and all packages containing the same shall, in addition to
any other peralty prescribed by this code, ipso facto be
forfeited to the state of montana."
            Section 16. Section 4-6-401, R.C.M. 1947, is amended
to read as follows:
            n4-6-409. Premises where Iiquor illegally sold public
nuisance. any room, house, building, boat, vehicle,
structure or place where alcoholic beverages are knowingly
manufactured, sold, or barteredy in violation of this code
or aectom 34-8-107 and all property knouingly kept and used
in maintaining the same is hereby declared to be d public
naisance, and any person who maintains such a nuisance shall
be guilty of a misdemeanory and upon conviction thereof
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noz or more than five-buadfed dellafe-$5004 and by
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or more than fir 6 months."
            Section i7. Eepeaier. Sections 4-1-305. 4-1-307.
4-4-106, and 4-6-206, R.C.M. 1947, are repealed.
    -End-
                                    -28-
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## CHAIRMAN

-qANCIS BARDANOUVE

- CAR KVAALEN

PAT MC KITTRICK
ROSE WEBER EXECUTIVE DIRECTOR
PAMELA DUENSING
administrative assistant
ROBERTA MOODY
BUPERVISOR. ALTER BYSTEM


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THelema, 5xicil

NEIL.J. LYNCH
vice chairman
GLEN DRAKE
CARROLL GRAHAM
FRANK HAZELBAKER
DIANA DOWLING
DIRECTOR, LEGAL SERVICES: CODE COMMISSIONER
ROBERT PERSON
DIRECTOR, RESEARCH
LC 0044

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

Section 2. 4-2-102. 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. 4-4-105. 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. 4-4-202. 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.

Section 7. 4-4-301. 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. 4-4-302. In notice example, substitute "beverages are" for "license is" to indicate the applicant must describc 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 ll. 4-4-403. 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 4-4-401 may 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. 4-6-205. 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. 4-6-401. Correct grammar by inserting "be imprisoned" for "by imprisonment".

Section 17. Repealers.
4-1-305. Repealed by consolidation with preceding section; 4-1-307 repealed as superfluous material; 4-4-106 repealed by consolidation with preceding section; 4-6-206 repealed by consolidation with preceding section.


#### Abstract

Approved by Committee on Business and Industry

\section*{IMTRODUCED BY MARKS} a bill for an act entitled: may act to refise hed claripy the hontana alcoholic bevbrage code ia sopport of heconification; amending sections 4-1-304, 4-2-102, 4-2-204, 4-4-105. 4-4-201. 4-4-202. 4-4-301. 4-4-302. 4-4-303. 4-4-401. 4-4-403.4-4-404, 4-5-105, 4-6-102, 4-6-205, ABD 4-6-401: REPEALING SECTIORS 4-1-305, 4-1-307, 4-4-106, AMD 4-6-206. R.C.N. 1947.n be if finacted bi the legislatobe of the state of montana: Section 1. Section 4-1-304, F. C. A. 1947, is amended to read as follows:    division. (1) No officer or employee of the liquor division, including those engaged in the sale of liguor at the various State_liquor_stores. eltay be directly or indirectly interested or engaqed in any other business or undertaking dealing in liquor, whether as owner, part ouner, partner. wember of syndicate, shareholder, agent, or enployeet and whether for his oun benefit or in a fiduciary capacity for some other person.


(2) no meaber or enployee of the division or any employee of the state ontly Eal solicit or recelve directly or indirectly any comeission, remuneration ${ }_{\mu}$ or gift whatsoever from any person or corporation baving sold, selling or offering liguor for sale to the state or division in-purawter-of pursuant to this code.
(3) No person selling or offering for sale tor or purchasing liguor fromp the state liguor divisionpebaly nay either directly or indirectly offer to pay any conaission, profit, or remueration or make any gift to any menber or employee of the division of ta any employee of the state, or to anyone on behalf of such menber or enployee.
(4) The probibition contained in subsection (3) of this section does not prohibit the division fron receiving samples of liquor for the purpose of chesical testing, subject to the following liaitations:
(a) Each manufactucer, distiller, conpounder, rectifier, importer, or wholesale distributory or any other person, fira, or corporation proposing to sell any fpirituoth-liquofe liguor to the Montana liquor division shall subait, uithout cost to the division pricr to the original porchase, an analysis of each brand and may submit a representative sample not exceeding twenty-fife-t25t flaid sunces of such werchandise to the
(b) It-shall-bethe-dutp-of-thedivieiontwhen then a
braad of liquor has been accepted for testing ty the division, the diyision shall forward the sample, unopened and in its entirety, to a qualified chenical laboratory for analysis.
(c) The division shall maintain written records of all samples receivedts The records shall show the brand name, arount and fron whom received, date received, the laboratory or chevist to who forwarded, the division's action on the brand, and the person to whom delivered or other final disposition of the sample.
(5) No liguor, vine, or ather epifituews alceholic beverage ghalt nay be vithdrawn from the regular warehouse inventory or from the state liquor stores of the Hontana liquor divisiont for any purpose mateomer other than bir sale at the prevailing state retail pricesp or for destroying danaged or defective merchandise. The division shall maintain a uritten record including the type, brand, container sizete number of botties or other unitsta signatures of witnessesta and method of destruction or other disposition of danaged or defective varehouse or state store merchandise."

Section 2. Section 4-2-102, R.C.A. 1947. is amended to read as follous:
"4-2-102. Containers to be sealed with cfficial seal - opening package on liqucr store preaises forbidden. No

Gpifiteof inte-ohat ligugr pay be sold to any purchasert except in a package, sealed with the official seal prescribed by this code, which package that gay not be opened on the prenises of a state store."

Section 3. Section 4-2-204. R.C.M. 1947, is asended to read as follous:
-4-2-204. Department to sell to licensees - posted price. The departaent is-hefeby-a甘thexieqd-te nay sell through its stores all kinds of liquor, vine, and cordials kept in stock to licensees licensed under this code at the posted price thereof in the store in wich maid the liquor is sold. All sales shall be upon a cash basis. The posted price as-wsed-herein-shatueat means the retail price of such liquor as fired and deternined by the department ef foponte and in addition thereto an excise and_license tar as provided in this zet-pfovided code."

Section 4. Section 4-4-105. B.C. A. 1947. is amended to read as follows:
m-4-105. Special permits to sell alcoholic beverages - application and issoance - (1) fal any association or corporation conducting a picnic, convention, fair, civic or conmaity enterprise, or sporting event shall in the discretion of the liquor division be entitled to a special periat to sell beer to the patrons of such event to be consumed vithin the enclosure wherein the event


#### Abstract

is held. (b) The application of any such association or corporation shall be presented 107 days in advance and shall describe the location of such enclosure werein where such event is to be held, the nature of the event, and the period when it is contemplated that the eyent will be beld. sweh The application shall be accompanied by the amount of the perait fee berinafer-peotided f(C) The pernit issued to such association or corporation shall is a special persity but shall not anthorize the sale of beer except starting dane-f if day advance of the regular period when events are being held upon such qrounds and during the period described in out the application and for $1+$ day thereafter.     fee-fex-GHeh-peffit. (2) fal may post of a nationally chartered veterans' organization or any a lodge of a recognized national fraternal organization not othervise licensed under this coder shallz in the discretion of the department, without notice or hearing as provided in 4-4-302, be entitled to a special permit to sell beer or_ansecial


#### Abstract

permit to sell all alcoholic beverages at such post or lodge, to menbers and their guests only, to be consuned within the hall or building of such post or ladge. fbl 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 perait ekall yill be used and the date it will be osed. fubb-applieation-mant-be  (C) The special permit issued shall be for a  onlfs and the department chall nay not issue more than twoter $+12+$ such permits to any such post or lodge during a calendar year."  read as follows: n4-4-201. Issuance of retail beer licenses -_ liait on number of retail licenses - wine license asendents -fotail-iceote off-prenises consumption. (1) Except as othervise provided by law, a license to sell beer at retaily  accordance with the provisions of this att code and the fegulatien Iules of the department ef-mente, may be issued to any person, firn, or corporation who flatu-be is approved by the department as a fit and proper person, firm.


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or corporation to sell beerta profidedy except that:
    (a) the number of retail beer licemses that the
department may issue for premises situated within incorforated cities and incorporated tovns and within a distance of miles from the corporate linits of such cities and touns shall be determined on the basis of popalation as shown by the most recent official united States census anthorized by Gengrobe congress，towit as fo은은：
（i）In in incorporated towns of fine－hetared－ \(500+\) inhabitants or less and within a distance of fire－45 miles from the corporate limits of such tovns，not more than one f47 retail beer license which mall hay not be used in conjunction vith a retail liguez all－beverages license；
fiil in incorporated cities or incorporated touns of nore than fixe－hemafod 500 inhabitants and not over two
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``` f5t miles froa the corporate lieits of such cities or tovns， one fit beer license for each fixe－tmadred－f500）inhabitants which nitheren not be used in conjunction with retail liquex all－beyerages licenses；
لiiil in incorporated cities of cver two－theusam \(+2,000+\) inhabitants and within a distance of filent from the corporate linits of such cities，two fll additional retail beer licenses for the first we－theysate－ \(\mathbf{2 s} 000\) t
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[^2]Which are in excess of the foregoing liaitations shall be
 violation of such liaitations: perided-that
1al. such limitations ehalt de not prevent the issuance Of a nontransferable and nonassignable retail beer license to z\#f a post of a nationally chartered veterans, organization or afy a lodge of a recognized national fraternal organization, if such veterans" or fraternal organization has been in existence for a period of five f5; years or more prior to January 1. 1949
fel the nupher of retail beer licenses that tbe departgent may issue for use at prenises situated oqtside of any incorporated_city or incorporated_toynand outside_of the area Hithin a distance of 5 ailes frog the conporated linits thereof or for use at premises_situated yithin any uninccreorated toyn shall be as determined br the departeent in the exercise of its_sound _discretion, except that_ng Eetail_beer license_may be_issued_for any premises_so Situated unless the department deternines that the issuance of such license_is_reguired_by_pghlic_cogyenience_agd necessiti.
12 1 The cities and incorporated touns_may enact grdinances defining certain areas in the cities and touns where_alccholic_beyeraqes may or may not be_sold. No incorporated city or incorporated town may by crdinance
-
HB 41
restrict the number of licenses that the department may issuet. frowided-that Hoyevers no retail beef license may be issued by the department for any premises situated within any zone of such city or town where the sale of beer or liquor is prohibited by ordinance, a certified copy of which has been filed with the departwent. The department shatl bave diegeetion-te may deny the issuance of a retail beer or orall-beqerages license if it thall-detexque Geternines that the prenises proposed for licensing are off regular police beats and cannot be properly policed by local anthorities.



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 Public-cenve日ieare-z\#d-necencity*
(2) (3) person holding a license to sell beer for consumption on the premises at retail may apply to the department for an aqendment to the license permitting the E nt
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$-10-$
HB 41
holder to sell wine as mell as beer. The division my issue such amendent if it finds, on a satisfactory showing by the applicant, that the sale of wine for consuaption on the premises would be supplementary to a restaurant or prepaced feed prepared-food business. a person holding a beer-and-wine license may sell wine for consumption on the prenises. He may buy wine only at retail fron the department. Nonretention of the beer license, for whatever reason, shall mean autolatic loss of the vine anendent license.

## 



(4) retail license to sell beer in the original packages for pfene off-premises consumption only may be issued to any person, firme or corporation tho ohatl-be is approved by the department as a fit and proper fersco. fires or corporation to sell beer and whose premises proposed for licensing are operated as a bona fide grocery store or a drogstore licensed as a pharacy. The nunter of such licenses that the department may issue oball is not be limited bp the provisions of subsection (1) of this sectiont but shall be determined by the department in the exercise of its sound discretion, and the department may in the erercise of its sound discretion grant or deny any application for
any such license or suspend or revoke any such license for

 - retall-beex-1ieenee"

Section 6. Section 4-4-202. R.C.A. 1947, is asended to read as follows:
"4-4-202. Hit-bererege sll-bererages license quota. +H Except as othervise provided by law, a license to sell liguor, beer, and vine at retail, an all-beverages license, in accordance with the provisions of this code and the
 be issued to any person tho thyt is approved by the department as a fit and proper person to sell such beveragesta except that:
faflll the namber of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of five-f5t niles from the corporate lisits of such cities and toms shall be deterinined on the basis of population as shown ty the most recent official onited States census authorized by Gonges congress, tewit as follo봉
fal In in incorporated towns of fife-bundred- 5004
 from the corpcrate linits of such towns, not more than two
(2) retail licenses;

1bl in incorporated cities or incorporated touns of wore than five-heddeed $\mathbf{f 5 0 0}$ inhabitants and not over three tereand- $43,000+$ inhabitants and within a aistance of fite fif wiles frow the corporate livits of sucb cities and towns, three $+3+$ retail licenses for the first ene-theusazad $+14000+$ inhabitants and one $H+H$ retail license for each

(C) in incorporated cities of over threethougand $+3,000 f$ inhabitants and vithin a distance of miles frow the corporate limits thereof, five 孙 $^{\prime}$ retail licenses for the first three-therand $-4,000+$ inhabitants and one 47 retail license for each additional exe-theusatd-fife-bundrea $+1,500+$ inhabitants.
121. The number of the inhabitants in such cities and touns, exclusive of the number of inhabitants residing within a distance of limits thereof, shall govern the number of retail licenses that may be issued for use within such cities and town and within a distance of $\ddagger$ i* 45 wiles from the corporate
 gore incorporated anicipalities are situated within a distance of five-f5t miles fron each other, the total number of retail licenses that may be issued for use in both of such muncipalities and within a distance of fife-f5t miles
from their respective corporate lifitst shall be determined on the basis of the coubined popalation of both of such municipalities and gall say not exceed the foregoing limitations. Notvithstanding the preceding sentence, the total population for deternining the quota of a city may includer with the city's population the population residing
 case where the nuber of persons residing outside but vithin fine-45t miles of the city erceeds the nuber of persons residing within the city. Such a deternination may be made only upon a special census taken by the department or its agent at the expense of the applicant for a license under this section. The faid distance of fire-f5t miles fron the corporate liaits of any incorporated city or incerfcrated toun shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of guth the city or tovn.

131 getail all-bererages licenses of issue on the date
 Which are in excess of the foregoing limitations shall be renewable, but no nev licenses thadt may be issued in viclation of such limitationst. provitet-thet-atet
(4). Such linitations ehall do not prevent the issuance of a nontransferable and nonassignable fas to ovnershif only) retail license to any post of a nationally chartered
veterans' organization or any lodge of a recognized national fraternal organization if such veterans or fraternal organization has been in existence for a pericd of $\ddagger+4$ years or more prior to January 1. 1949. He-ineorperated -ity-
 that-ne-Fetail-license-maf-be-itacuod-by-the-departiont-fot any-p

 rfe-departmett-bhall-ha*e-4icefetion-te-deny-theictuatee-0t



(b+(5) the The nubber of retail all-beverages licenses that the department may issue for use at presises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five-45 miles from the corporate limits thereof, ohell-be may not be wore than
 population of the countyp after excluding the population of incorporated cities and incorporated town in such county." Section 7. Section 4-4-301, R.C. H. 1947, is anended te read as follows:

44-4-301. Application for all-Deverages license -
penalty for false statenents. 111 Prior to the issuance of * an_all-beverages license as provided in_4-4-202, the applicant shall file witb the no\#tana department ef ferente an application in writing, signed by the applicanty and containing such information and statenents relative to the applicant and the premises where the alcohclic beverage is to be soldy as may be required by the department.

121 The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths. If any false statement is made in any part of the application, the applicant or applicantst ghalt-be-deamea gre guilty of a misdemeanor and ufon conviction thereof the license, if issued, shall be revoked and the applicant, or applicantst subjected to the fenalties provided by law."

Section 8. Section 4-4-302, R.C. H. 1947. is amedded to read as follows:
"4-4-302. Hotice of application -- publication protest. (11 Then an application has been filed with the Hontate departint ef-revente for a license to sell alcoholic beverages at retaily or to transfer such license, the departeent shall prosptly publish in a dewspaper of general circulation in the city, toun or county fron whene foth thich the application mall oeme conest a notice that such applicant has made application for such licenset and
that protests against the issuance of a license to the applicant will be heard at a time and place stated in the notice, which shall be in the city of Helena, Montana. Notice of application for a ney license shall be fablishea once a week for ferf--44 consecutive veeks. Notice of application for transfer of a license shall be published once week for wo- $+2+$ consecutive weeks. Hotice may be sutstantially in the following form:

MOTICE OF APPLICATION fOR PBTAIL
ALLMEVERAGES LICEASE
Wotice is hereby given that on the .... day cf ..... 19... one (name of applicant) filed an application for a retail all-beverages license with the montana department of revenue, to be nsea at (describe location of premises where tiente-is beverages are to be sold), and protests, if any there be, against the issuance of such license will te heard at the hour of -M , on the .... day of ..... 19... at the office of the montana departaent of revenoet in felena, montana.

## Bated....

signed ...... administratob
(2) No license falt gay te issued natil on or after the date set in the notice for hearing frotests. Hor shall say a license under this code be issued if the fata--nentan departuent ef-Eftente-thath-ind finds from the evidence at
> fata the hearing that the velfare of the feople residing in the vicinity of the place for which such license is desired will be adversely and seriously affected or that the purposes of this code vill not be carried out by the issuance of such license. Each applicant shall, at the time of filing his application, pay to the Hemtan departant ef ferenter an amount sufficient to cover the costs of publishing the notice."

> Section 9. Section 4-4-303, R.C.A. 1947, is amended to read as fellous:
> n4-4-303. Investigation of application. Upon receipt of a conpleted application for a license under this code, accompanied by the necessary license fee and-bent, the department ef fovente shall vithin thitty-f $30+$ days thereaftefr-azae-to-be-rate gake a thorcugh investigation of all matters pertaining theretor and shall deteraine whether such applicant is qualified to receive a license and his presises are suitable for the carring on of the business, and whether the reguireaents of this code and the rules 7 ad-regulations pronigated by the department are met and conplied with.n

> Section 10. Section 4-4-401, R.C. B. 1947, is amended to read as follous:
> n4-4-401. Fees for 1 icenses ---etpifation-dates-
> fegtation-by-aities-ata-towif. 11) (al Each beer licensef,

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under the provisions of this code, shall pay an annual
license fee as follous:
            (i) Fath each mbrever,ll wherever located, whose
product is sold or offered for sale vithin the state, fiqe
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+$400+;
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f$200t; ritb a vine license_anendment_enanadditional_s200;
            (iv) for a license_to sell beer_at retail for
off-pregises_consumption only_ the_same_as_a_retail beer
license:
            (v) any anl unit of a nationally chartered veterans'
organizatione fifty-detlace-1550%+s
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    fB) A transfer of any owet breyer'S& wholegaler'sc_or
beer retailecis license may be made on applicaticn to the
Hentan= department of-menwe with the consent of the gaid
department& provided that gaid the transferee ftall-gwalify
gualifies under this code. The-eitieg-atd-imoerpofated
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ICl This code shall not be construed or interpreted so as to repeal, anend, nodify, change, or alter any provisions of this code ubich require beer manafactured outside of the etate Montana and shipped into Montana to be consigned to and shipped to a licensed yholesaler and by him unloaded into his warehouse or subwarehoose in Montana.
(2) The per it fee under 4-4-105111 is conputed_at the rate of $\$ 15$ a day for each day beer is_sold at those erepts lasting 2 or more days britin no case_be_less_than_s $30_{2}$
13) The perinit fee puder 4-4-105i2L_is_f1C for_the sale of beer only or $\$ 20$ for the sale of all alcoholic beverages.
(4) Passenger carcier licenses shall be issoed ugon payment by the applicant_of an angual license_fee_in the_s모 Qf $\$ 300$.
(5) The_angal Iicense_fee for a license_to sell wine on the_prenises, when issued as an äendernt_to a_beer=only license, is \$200.
(6) Each licensee licensed under the quotas_of 4-4 202 shall_pay an_annual license_fee_as_follows:
fal except as hereinafter provided for each_license outside of incorforated cities and incorporated touns_or in
incorporated cities and incorporated tonns yith a pcrulaticn Of less than＿2\＆000＿$\$ 400:$
（t）except as＿hereinafter＿provided for each license in incorporated cities mith a population of more than＿2．000
 theregf＿－measured in a＿straight line＿fros the＿nearest entrance of the preaises＿to be＿licensed＿to the nearest boundary of such citye 5 S00：
（c）ex＿ept＿as＿hereinatter provided，for each license in incorporated cities＿rith a popplation＿of ore thap＿ 5 gog and less＿than 10,000 or Hithin a＿distance of 5 niles thereof geasored＿in＿a＿straight line fron the nearest entrance of the presises to be licensed to the＿nearest boundary of such city．$\$ 650$ ：
（1）for each license＿in＿incorporated＿cities＿yith＿a population of $10,00 C$ or wore or or ithin＿adistance of 5 qiles thereof．measured in a straight＿lige fros the nearest entrance＿of the premises＿to be licensed to thenearest bong dacy of such cithe＿$\$ 800$ ：
（e）the distance of 5 miles from the corcorate linits of any incorporated cities and incorporated toyns＿is neasured in a straight line＿frog the nearest entrance of the pregises to be licensed to the nearest bougdacy of such＿city or tovn：and where＿the premises of the applicant to be licensed＿are situated＿yithin＿5＿giles＿of＿the＿corforate
boundaries of tro or pore incorporated cities or incorporated touns of different popglations，the licensefee Ghargeable＿by the＿larqer incorporated＿city or incciporated town applies and shall be paid by the applicant．旦hen the premises of the applicant to be licensed are situated within an incorporated town or incorporated＿city and any portion＿of the incorgorated toun or incorporated city is withouta 5－畩le limit，＿the license fee chargeable by the syaller incorporated torn or incorporated＿citi＿applies and shall be paid＿by＿the＿applicant．
（f）an applicant for the issuance of an＿original license＿to be＿located in areas＿described in parcagraph＿fdi＿of this subsection shall pay＿a＿onetine original license＿fergof $\$ 20,000$ for agy such license issued．The onetine license Eee of $\$ 20,000$ shall not apply to any transfer or renewal of a＿license＿dulyissmed＿prior to＿July 1．＿1974．＿＿All＿＿licenses． hguevere are subject to the annual reneral fee of $\$ 800$ ．
（7）The license fees herein proyided for are exclusive of＿and＿in＿adition＿to other＿license＿fees chargeable＿in Hontana for the sale of lignor，beer ${ }_{c}$ and ialt beverages，＂

Section 11．Section 4－4－403，R．C．B．1947，is asended to read as follous
n4－4－403．Lieense－fee－fer－retail－6ale－ef－liquex－within
 gengur Census of population．Babh－liencee－tieencen－andef
 fee-a日-foltowt











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 and-in-atdition-to-0thez-Iigenee-fect-chafgeatle-ix-the
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The census taken under the direction of congeess congress ef-the-fnisted-stater-in-the-year-mineteen-bundzed
 basis upon uhich the respective populations of gat the muncipalities shall be deterained unless a direct enumeration of the inhabitants is made the state or waicipal corporation, in wich case such later direct enumeration shall constitute such basisfe peovided. toweverp-that-te Ho census hereafter taken shatz tay be such basis until it published under the authority under which the same ftuth-be is taken, and then its effect shall be prospectire_only from the date of such

 opefate-fetfeactively."

Section 12. Section 4-4-404. R.C.E. 1947, is amended to read as follous:
m4-4-404. Fee for and expiration of licenses.
 yeat thereaftery the nemtana department of-foweme shall issue licenses to brevers, wholesalers_or_retailers_of fcr the retail sale of alcoholic beverages liquef on an annual basist and at sucb fees as are prescribed by lav, and such licenses shall expire at midnight of June 30th 30 of the succeeding year. The department shall notify each applicant for an original license or reneval that he should inform himself of applicable provisions of federal law which may require a perait from a federal agency, $n$

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

H4-5-105. Pee to be charged. The county clerk and recorders shall charge and collect a fee of ene-deltaf-and fifty-con*e- $\$ \$ 1.504$ from the applicant at the time the application is preparedri and one-deltar- $1 \$ 1$ thereof sball be transmitted to the Hentam department ef cereme along with the application and shall be used to defray the cost of aduinistering and executing the provisions of this ede chapter. Any surplus shall revert to the general fund of the-mete of Montana. The remaining fiftycents shall be paid into the general fund of the county to

| Section 14. Section 4-6-102. R.C.M. 1947, is amended | 2 |
| :---: | :---: |
| to read as follows: |  |
| n4-6-102. Sale of liquor not purchased fron state |  |
| store forbidden - penalty. It is onlawful for any |  |
| licensee to sell or keep for sale haver have his |  |
| prenises for any purpose whatevery any liquor except that |  |
| purchased from the state liguor store, and any licensee |  |
| found in possession oft or selling and keeping for saley any |  |
| liguor which was not purchased from a state ligucr storer 10 |  |
| shall, upon conviction, be fined funished_by anfine of not |  |
|  |  |
|  |  |
| inprisoneent for not less than theee- $3+$ months er more |  |
| than one-fit yeary or by both such fine and imprisoneent, |  |
| and if the departaent oball is satisfied that any such |  |
| liguor was knovingly sold or kept for sale within the 17 |  |
| licensed preaises by emblte licenseer or by his agents. 18 |  |
| servants or enployees, it-ohett-be-matatery-thet-mid the |  |
| department shall imediately revoke the license efoid |  |
| tioneee." |  |
| Section 15. Section 4-6-205, R.C.A. 1947. is anended | 22 |
| to read as follows: | 23 |
| \#4-6-205. Unlauful alcoholic beverage - seizure - | 24 |
| forfeiture. Any inpestigator or peace officer who finds an | 25 |

defray the county's costs in administering this progran."
ad as follows:
n4-6-102. Sale of liquor not purchased fron state
store forbidden - penalty. It ind indawful for any
licensee to sell or keep for sale have on his
prenises for any purpose whatevert any liquor except that
purchased from the state liquor store, and any licensee
found in possession of or selling and keeping for saley any
shall, upon confiction, be fimea fugished_byanfine of not
less than fife-hendsed-dellafe- $\$ 500$-mex of more than

imprisonment for not less than theerf months en more
than one-fit yeary or by both such fine and imprisonent,
and if the departaent oblle is satisfied that any such
liquor was knovingly sold or kept for sale within the
保
department shall imediately revoke the license foid
tiaemeee."
Section 15. Section 4-6-205, R.C.A. 1947, is anended
forfeiture. any investigator or peace officer who finds an
alcoholic beveraget wich he has reasonatle cause tc believe is had or keft by any person in violation of the provisions of this codef may forthuith seize and remove the same and the packages in which the alcoholic beverage is kept, and upon conviction of the persor for a violation of any provision of thie-meetion 组3-102, the alcoholic beverage and all packages containing the saee shall, in additicn tc any other penalty prescribed by this code, ipso facto be forfeited to the state of Montana."

Section 16. Section 4-6-401, F.C.A. 1947, is amended to read as follous:
"4-6-401. Preaises where liquor illegally sold public puisance. Any roon, hoose, building, boat, vehicle, structure or place where alcobolic beverages are knowingly manufactured, sold, or barteredy in viclation of this code or in maintaining the sane is bereby declared to be a public nuisance $\mu_{\mu}$ and any person tho naintains such a nuisance shall be guilty of a misdemeanory and upon conviction thereof shall be fined not less than one-bwated-4ektatc- $\$ 100.0047$
 imprifenment be inprisoned not less than thifti 30 daysp-Aef or more than eita $\underline{6}$ months:"

Section 17. Repealer. Sections 4-1-305, 4-1-307, 4-4-906, and 4-6-206, R.C.B. 1947, are repealed.
-End-
-28-
HB 41
house bill wo. 41
fatroduced bi marks
a bill for an act entitled: man act to revise and cimeify the hontara alcoholic beverage code in sopport of RECODIFICATION; AHENDIMG SECTIONS 4-1-304, 4-2-102, 4-2-204, 4-4-105, 4-4-201. 4-4-202, 4-4-301. 4-4-302, 4-4-303, 4-4-401, 4-4-403, 4-4-404, 4-5-105, 4-6-102, 4-6-205, AED 4-6-401; REPEALING SECTIONS 4-1-305, 4-1-307, 4-4-106, AND 4-6-206. R.C.K. 1947..
be it fincted bi tae legislatore of tae state of nontara:
Section 1. Section 4-1-304, R.C.H. 1947. is anended to read as follous:

i\#terectad-in-1iquerGift, diyision. (1) No officer or eployee of the liquor division includinq those engaged in the sale of liguor at the various state liquor stores. etratl nay be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, meaber of syndicate, shareholder, agent, or eaployeer and Whether for his oun benefit or in a fiduciary capacity for some other person.
(2) Ho menber or enplogee of the division or any enployee of the state ghetl nay solicit or receive directly or indirectly any conmission, requaerations or gift whatsoever from any person or corporation having sold, selling or offering liquor for sale to the state or division in-purewtero-at pnispant to this code.
(3) No person selling or offering for sale tor or purchasing liquor front the state liquor division, oftall may either directly or indirectip offer to pay any comeission. profit $\mu_{2}$ or remuneration, or make any gift to any member or enployee of the division ef to any employee of the state, or to adyone on behalf of such member or exployee.
(4) The prohibition contained in subsection (3) of this section does not prohibit the division fron receiving samples of liquor for the purpose of chetical testing, subject to the following limitations:
(a) Each anufacturer. distiller, cowpounder. rectifier, importer, or wholesale distributory or any other person, firsi, or corporation proposing to sell any epipituoue-liquere liquor to the sontana liquor division shall subinit, vithout cost to the division pricr to the original porchase, an analysis of each brand and may subsit a representative sample not exceeding wemty-five-f25t flaid ounces of such merchandise to the beafdrdivisiond.

brand of liguor bas been accepted for testing by the division, the division shall formard the sample, unopened and in its entirety. to a qualified chemical laboratory for analysis.
(c) The division shall maintain written records of all samples receivedta the records shall shov the brand name, anount and from whon received, date received, the laboratory or chemist to whon forvarded, the division's action on the brand, and the person to whon delivered or other final disposition of the sample.
(5) Ho liquor, vine, or other epintioeve alcoholic beverage atzil tay be withdravn from the regular warehonse inventory or fros the state liquor stores of the Hontana liquor division, for any porpose wheteover other than by sale at the prevailing state retail pricesp or for destroying danaged or defective merchandise. The division shall aintain a written record includiog the type, brand, and container sizeta nurber of bottles or other anitsta signatures of mitnessesta and method of destruction or other disposition of damaged or defective varehouse or state store nerchandise."

Section 2. Section 4-2-102, R.C.B. 1947, is amended to read as follous:
m-2-102. Containers to be sealed with cfficial seal - opening package on liguor store prenises fortidden. Ho
 except in a packaget sealed with the official seal prescribed by this zet code, uhich package thedt hay not be opened on the presises of a state store."

Section 3. Section 4-2-204, R.C.U. 1947, is anended to read as follous:

14-2-204. Departgent to sell to licensees - posted price. The department if-herebr-antheximed-te nay sell through its stores all kinds of liquor, vines abd cordials kept in stock to licensees licensed under this code at the posted price thereof in the store in which oaid the liquor is sold. All sales shall be upon a cash basis. The fosted price se-isel-hereis-etalimean means the retail price of such liquor as fired and determined by the department of eqome and in addition thereto an excise and license taz as proyided in this tet-pforided code. ${ }^{\text {m }}$

Section 4. Section 4-4-105, B.C. H. 1947, is amended to read as follows:
"4-4-105. Special permits to sell alcoholic beverages - application and issuance --fee. (1) fal any association or corporation conducting a picaic, convention, fair, civic or comminity enterprise, or sporting eventy shall in the discretion of the liquor division be entitled to a special perifit to sell beer to the patrons of such event to be consuad uithin the enclosare wherein the event

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: " $\uparrow$ "
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"

## HUJSE ALLL NU. 41

intruouled by marks
a bill for an act entitled: wan act io reyise and clarify ihe muntana alcuhglic beverage code in support of heCODIFICATIGN; AMENDING SECTIONS 4-1-304, 4-2-102, 4-2-204, 4-4-105, 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303, 4-4-401, 4-4-403, 4-4-404, 4-5-105, 4-6-102, 4-6-205, AND 4-6-401; REPEALING SECIIONS 4-1-305, 4-1-307, 4-4-106, AND 4-6-246. R.C.H. 1947." be if enacteg by the legislature of the state of montana:

Section 1. Section 4-1-304, R.C.M. 1947, is amended to read as follows:
*4-1-304. tiquor--diviston---emptoyees---not---to-be interested-in-tiquor-sates---untawfut-to--give--or--recerve giftr--commissfon-or-remunerotion Prohibited_acts withia dixision. (1) No officer or employee of the liquor divisionz includiag those_engaged_io_the sale_of_liquor_at the various state liquer storess shatt may be directly or indirectly interested or engaged in any other business or undertaking dealiny in liquor, whether ds owner, part owner, partner, member of syndicate, shareholder: agents or emrloyeet and whether for his own benefit or in a fiduciary capacity for some other derson.
(2) No member or employee of the division or any employee of the state shatt may solicit or receive directly or indirectly any commission remunerationg or gift whatsoever from any person or corporation having sold sellingy or offering liquor for sale to the state or division in-pursuonce-of pursuant to this code.
(3) No person selling or offering for sale tov or purchasing liquor fromy the state liquor divisionv-shott may eitner directly or indirectly offer to pay any commission, profiti or remunerationy or make any gift to any member or employee of the divisions or to any employee of the state, or to anyone on behalf of such member or employee.
(4) The prohibition contained in subsection (3) of tnis section does not pronibit the division from receiving samples of 1 iquor for the purpose of chemical testing, subject to the following limitations:
(a) Each manufacturer, distiller. compounder, rectifier: importer, or wholesale distributory or any other person, firmp or corporation proposing to sell any spirituoas-tiquors Liguar to the Montana liquor division snall submit, without cost to the division prior to the original purchase, an analysis of each brand and may submit a representative sample not exceeding twenty-five-t25t fluid ounces of such merchandise to the boerd-fdivisionf.
(b) tt--shatt-be-the-duty-of-the-divisionv-when khen a
brand of liquor has been accepted for testing by the
division, to the division shall formard the sample, unodened
and in its entirety, to a qualified chemical laboratory for
analysis.
(c) The division shall maintain written records of all samples receivedts sueh Ibe records shall strow the brand name amount and fron whon received, date received, the laborstory 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.
(5) No liquor. wine, or other spirituous alcabolic beverage shett may be withdrawn from the reguiar warehouse inventory of from the state liquor stores of the Hontana liquor divisiont for any purpose whatsoever other than by sale at the prevailing state retail pricesy or for destrayinq damaged or defective merchandise. The division shall maintain a written record including the type, brand. and container sizete number of bottles or other unitste signatures of mitnessesta and method of destruction or other disposition of damaqed or defective warehouse or state store merchandise."
section 2. Section 4-2-102, ReC.M. 1947, is amended to reac as follows:
m-2-102. Containers to be sealed with official seal -- osening package on liquor store premises forbidden. No
division, to the division shall formara the sample, unodened and in its entirety, to a qualified chemical laboratory for analysis.
spifits-or-wine-shott liquor may be sold to any purchasery except in a packagev sealed with the official seal prescribed by this aet coder which packaqe shntt may not be opened on the premises of a state store."

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

4-2-204. Department to sell to licensees -- posted price. The department is--mereby--authorized--to gay sell through its stores all kinds of ifquor, winez and cordials kept in stock to licensees licensed under this code at the posted price thereof in the store in which sard the liquor is sola. Ali sales shall be upon a cash basis. The posted price as--used--herein-shałt-meon means the retail price of sucn liquor as fixed and determined by the department of revenue and in addition thereto an excise and license tax as proyided in this aet-orovided cods."
section 4. Section 4-4-105, R.C.M. 1947, is amended to read is follows:
"4-4-10s. Special permits to sell peer alcobalis Deyerzaes -- application and issuance ----fee. (llyal Any association or corporation conducting a picnic, convention, fair, civic or commenty enterprise, or sporting event small in the discretion of the liquor division be entitled t) a special permit to sell beer to the patrons of such event to be consumed within the enclosure wherein the event

[^3]permit_to_sell_all_alcoholic beverages at such post or lodge, to members and their quests only, to be consumed within the hall or building of such post or lodge.
(b) The appifation of such nationally chartered veterans organization or lodge of a recognized national fraternal organization shali describe the location of the hall or building where the special permit shett will be used and the date it will be used. sueh-mpprieetion-atrot子-be


Lci The special permit issued shall be for a twenty-four--(24)-hour 24-hour period only ending at 2 a.m. ontys and the department shatt may not issue more than twetve--t12t such permits to any such post or lodge during a calendar year."

Section 5. Section 4-4-201, R.C.M. 1947, is amended to read as follows:
n4-4-201. Issuance of retail beer licenses -- limit on number of beer retail licenses - wine license amendments --retopt-tieense-fee off-prenises consumption. (1) Except as othermise provided by lawt a license to sell beer at retaily or beer and wint at retail pursannt-to-subsection-tzt, in accordance with the provisions of this net code and the regutgtions rules of the department of--revente, may be issued to any person, firme or corporation who shat+--be is approved by the department as afit and proper person, firme
or corporation to sell beerte provided except that:
(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of fire-tst miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by fongress congress. to-wit as follaus:

Lil In in incorporated towns of five-mundred-t500t inhabitants or less and within a distance of fire-f5t miles from the corporate inits of such touns, not more than one tit retail beer license which shatt may not be used in conjunction with a retail + +quop all-beyerages license;
(iil) in incorporated cities or incorporated tnwns of more than five-hundred- $500+$ inhabitants and not over two thousand- $\mathrm{t}_{2} \mathbf{2 0 0 0}$ t inhabitants and within a distance of ftve t5t wiles from the corporate linits of such cities or towns, one tit beer license for each fire-hundred-t500t inhabitants which said-beer-license-shatt may not be used in conjunction with retail +iquor all-beverages 1 icenses;

Liili in incorporated cities of over two-thousand tzs000t inhabitants and within a distance of five-tst miles from the corporate limits of such cities, two tzt additional retail beer licenses for the first two-thousond--t2,000t
innabitants or major fraction thereof and one tty additional retail beer license for each additional two-thousand $+2,2000 t$ inhabitants which shatt may not be used in conjunction with retail tituor all-texarages licenses:i

CDI Fhe the number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five-fit miles from the corporate limits thereof. snall govern the number of retaif beer licenses that may be issued for use within such cities and towns and within a distance of five-tif miles from the corporate limits thereofta providedr-thot-where If two tzi or more incorporated municipalities are situated within a distance of five-t5t wiles from each other, the total number of retail beer licenses that may be issued for use in both of such municipalities and within a distance of five-tst miles from their respective corporate limitsy shall be deternined on the basis of the combined populations of both of such municipalities and shoft may not exceed the foregoing limitations. The said distance of five-t5t miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensina to the nearest forporate boundary of such city or town.
(c) Hetart retail beer licenses of issue on the-date of-the-passage-and-opprovet-of-this-act Earch_le_194le and
which are in excess of the foregoing limitations shall be renewable, but no new licenses shott max be issued in violation of such limitations HWLESS_LL_LS_ESIABLISHED OH IHE BECDRD OF_CONTESIED_CASE_HEARING_IHAL AN_AOOLILONAL LLCEMAE_OR_LIGENSES_HOLLD_REASONABLY_SERYE_THE_PUBLIC CONYENLENCE AND NECESSIII; orovidedv-thet
(d) such liaitations shatt de not prevent the issuance of a nontransferable and nonassignable retail beer license to ony a post of a nationally chartered veterans" organizztion or any a lodge of a recognized national traternal organizationy if such veterans or fraternal organization has been in existence for a period of fire t5t years or more priar to January 1, 1949世i
(e) the number of retail beer licenses that the department pay issue for use at oremises situated outside of any iacorporated_city or incorporated tom and outside of the__aLea_mithin__ distance_of 5miles_from the_corporated liaits thereof or for use at orgmises situated within_any uniacorporated_ torn sthall be as determined by the department in_tae_exercise_of_its sound discretion, except that ne retail beer_license_may be_issued for any premises so situated unless the dedartaent detergiocs that the issuance gL suc力 _ License is requirec by public conveaience_and necessitye

L2 _Ine_cities and incorporated_toms nay enact


#### Abstract

ordinances_defining_certain areas in the cities and town mere_alcobolic bexerages bay or may not be solde No incorporated city or incorporated town may by ordinance restrict the number of licenses that the department may issuet. provided-thnt Homexer. no retail beer license may be issued by the department for any premises situated within any zone of such city or town wherein where the sale of beer or liquor is prohibited by ordinance, a certified copy of wich has been filed with the department. The departeent shot+--nove--otseretion-to may deny the issuance of a retail beet scall=beverages license if it shatt---tetermine determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities. fb;--Fhe--number--of--reteit--beer--tieenses-thet--the deportment-may-issue-for-use-ot-prewtses-stetueted-outside-of any-ineorporated-eity-or-incorporated-town-ant-outside-of  eorporated--+inits--thereofy-or-for-use-at-orem+ses-situtated witntn-any-tnimeorporated-town-shat+-be-as-deterwtned-by-the deportment--in--the--exereise--of--its---sound---diseretiont proriaedr--that--no--retait-beer-tieense-shat+-be-issuet-for any--oremises--so-steuated--turtess--the--department---shat7 determine--that--the-issunnee-of-steh-+ieense-is-required-by pubtit-conventence-and-necessity


tzifil A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the nolder to sell wine as well as beer. The division may issue such amendment if it finds, on a satisfactory showina by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared food prepared-food business. A person holding a beer-and-wine license may self wine for consumption on the premises. He may buy wine only at retail from the department. Nonretention of the beer license, for whetever reason, shall mean automatic loss of the wine amendment 3icense.
f3t--7he-wnnot-tieense-fee-for-a-tirense-to-sett-wine on--the-premisest-when-issued-as-on-amendment-to-s-beer-onty +ieense-shat+-be-two-hundred-dot+ars-t*ze0t*
(4) retail license to sell beer in the original packases for off-premtse off-gremises consumption only may be issued to any person, firmz or corporation who shett--be is approved by the department as fit and proper person, firme or corporation to sell beer and mose premises proposed for iicensing are operated as a bona fide grocery store or a drugstore licensed as a pharmacy. The number of such licenses that the department may issuas shott is not be limited by the provisions of subsection (l) of this section.
but snall be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion arant or deny any application for any such license or suspend or revoke any such lirense for cause. Fhe-annuat-tieense-fee-for-a-tieense-to-sett-beer-at retait-for-off-orsmises-eonsumption-shatl-be-the-some-cs-for - -retatt-beer-子icense**
section 6. Section 4-4-202. R.C.M. 1947, is amended to read is follows:
m4-4-202. A+t-beverage All-beverages license quota. tH Except as otherwise provided by law, a license to sell liquor, beere and wine at retail, an all-beverages license. in accordance with the provisions of this code and the regutstions cules of the montone departant of-reventre, may be issued to any person who stab+-be is approved by the department as a fit and proper person to sell such oeveragests providedy except that:
totill the number of all-beveraqes licenses that the department may issue for premises situated within incorporated cities ano incorporated towns and within a vistance of five-tst miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official united states census authorized by foneress congress; to-wit as follous:
(a) In in incorporated towns of five-hundred-t500t inhabitants or less and within a distance of ftre-tst miles from the corporate limits of such towns, not more than two tZt retail licenses;
(b) in incorporated cities or incorporated towns of more than five-hundred- $\mathbf{t} 500$ inhabitants and not over three emotsand-t32000t inhabitants and within a distance of five tst miles from the corparate limits of such cities and towns, three f3t retail licenses for the first ome--thousend tly000t innabitants and one tto retail license for each additional ome-thousend- $\mathrm{t}_{12} 000+$ inhabitants;

LCl in incorporated cities of over three-thousand
 from the corporate limits thereof, five tst retail licenses for the first three-thousans- $\mathbf{~ 3 2 0 0 0 +}$ inhabitants and one tit retail license for each additional one-thousend-five-hundred t12500) inhabitants.

121 The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five--t5t miles from the corporate limits thereof, shall govern the number of retail licenses that may be issued for use within such cities and towns and witnin a distance of five--t5t miles from the corporate limits thereofti providedr-howevery-that-where If two tzi or more incorporated municipalities are situated within a
distance of five-t5t miles from each other, the total number of retail licenses that may be issued for use in both of sucn municipalities and within a distance of five-t5t miles from their respective corporate limitsy shall be deternined on the basis of the combined population of both of such municipalities and shat+ may not exceed the foregoing limitations. Notwithstanding the preceding sentence, the total population for determining the quota of a city may includet with the city's populationt the population residing outsidey but within fire-ft miles of the city limits in a case where the number of persons residing outside but within tive-tst ailes of the city exceeds the number of persons residing within the city. Such a detersination may be made only upon a special census taken by the department or its agent at the expense of the applicant for a iicense under this section. The said distance of five-t5t miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line frow the nearest entrance of the premises proposed for licensing to the nearest corporate houndary of sech the city or town.
(1) Retail all-beverages licenses of issue on the-dete of-the-passage-ant-approrat-of-thts-eode hacch_1.19412 and which are in excess of the foregoing ifmitations shall be renemple, but no new licenses shat+ may be issued in vialation of such limitationst UNLESS II ISESSABLISHEO OM

## IHE KECURODE A CONLESIED CASE HEARING IHAL AH ADOIIIONAL

 LICENSE_OR_LILENSES_HOULR BEASONABLY SERYE_IHE PUBLIC COHYELIEALE-AND NECESSIIY. provided-thet-suth4 4 Such limitations shaty do not prevent tre issuance of a nontransferable and nonassignable (as to ownershio only) retail license to any post of a nationally chartered veterans* organization or any lodge of a recognized national fraternal organizationy if such veterans or fraternal organization has been in existence for a period of five-tst years or more prior to January 1. 1949. No--ineorporeted eity-or--ineerporated-town-may-by-ordinence-restriet-the number-of-tieenses-that-the-deportment-mey-issuef--prorided that--no--retait-Yitense-moy-be-issued-by-the-drpar tment-for any-premises-attueted-within-any-zone--of-a--city-or--town wherein-the-sate--of--tiquor-is-prohibited-by-ordinancev-a eertiried-eopr-of-whieh-has-been-fited-with-the--denartmentu The-department-shat+-have-aiseretion-to-deny-the-issuanee-of a--retait--7ieense--if--tt-shatt-determine-thot-the-premises proposed-for-tieensing-are-off--regatar--potiee--beets--end eannot-be-proper+y-połخeed-by-łoeat-authoritites*
foti5l the Ine number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five-tit miles from the corporate limits thereofy-stoft-be max not be more than
one tit license for each seven-hundret--fifty--f750t population of the county after excluding the population of incorporated cities and incorporated towns in such countye"

Section 1. Section 4-4-301, R.C.M. 1947, is amended to read as follows:
"4-4-301. Application for all-beyerages license -penalty for false statements. (1) Prior to the issuance of - an_all-beverages license as merein provided in_4-4-202, the applicant shall file with the montene department of revente an application in writing, signed by the applicanty and containing such information and statements relative to tne applicant and the oremises where the alcoholic beveraqe is to be soldy as may be required by the department.

Lit The appifation shall be verified by the affidavit of the pefson making the same before a derson authorized to administer oaths. If any false statement is made in any part of said the application, the applicanty or applicantsy snatt--be--deened are guilty of a mistemeanore and upon conviction thereof the license, if issued, shall be revoked and the applicantr or applicantsp subjected to the penalties provided by law."

Section B. Section 4-4-302. R.C.M. 1947. is amended to read is follows:

44-4-302. Notice of application -- publication protest. 11 when an application has been filed with the

2 alcoholic beverages at retaity or to transfer such license, the department shall promptly publish in a newspaper of qeneral circulation in the city, town or county from whene steh which the application shett-eome comest a notice that such applicant has made application for such ifcensey and that protests against the issuance of a license to the applicant will be heard at a time and place stated in the notice, which shall be in the city of Helenay Montana. Notice of application for a new license shall be published once a week for four-t4 $\boldsymbol{+ 1}$ consecutive meeks. Notice of application for transfer of a license shall be published once a week for two-t $2+$ consecutive weeks. Notice may be substantially in the following form:
notice of applicalion fur retail

> ALL-BEVERAGES LICENSE
votice is hereby given that on the .... day of ...... 19.-. one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue, to be used at (describe location of premises where treense--is beyecages are to be sold, and protests, if any there te, against the issuance of such license will be heard at the hour of --M, on the .... day of ..... $19 . .{ }^{\text {. }}$ at the office of the Montana department of revenuev in Helenap Montana.
uated .....
Signed ....... ADMINISTRATOR

L21 No license shat+ may be issued until on or after the date set in the notice for hearing protests. Nor shott bay a license under this code be issued if the soid-Montenn departnent of-revenue-shotl-find finds from the evidence at soid the hearing that the welfare of the people residing in the vicinity of the place for which such license is desired wili de adversely and seriously affectedy or that the purposes of this code will not be carited out by the issuance of such licensee Each applicant shall, at the time of filing his application, pay to the montant department of reventer an amount sufficient to cover the costs of publishing seid the notice."

Section 9. Section 4-4-303, R.C.M. 1947, is amended to read is follows:
n4-4-303. Investigation of application. Upon receipt of a completed application for a license under this code: accompanied by the necessary license tee and-bend, the department of---revenue shall within thrity- $30+$ days thereafterf-eause-to-be-made make a thorough investigation of all matters pertaining theretoy and shall determine whether such applicant is qualified to receive a license and nis premises are suitable for the carrying on of the businassy and whether the requirements of this crde and the
rules and－regutotions promulgated by the departiment are met and complied withe＂

Section 10．Section 4－4－401，R．C．M．1947，is amended to read as follows：
＂4－4－401．Fees for licenses－－－expirntton－－detes－ regutgeton－－by－－ettires－ant－towns．LIJ（a）Each beef licensee， under the provisions of this code，shall pay an annual ifcense fee as follows：

Lil Each each brewer，wherever located，whose product is sold or offered for sale within the state，five hundred－totters－t $\$ 500 \%$ ；for each storage＿depote $\$ 400 \mathrm{E}$

Lii）Each gach mholesaler＝1 four－hundred－dotters t $\$ 400$ ；

Liiil Each gach 日EER＊retailer＂g two－hundred－－dot7ers t\＄2007；with a wine＿license amendeent san additional $\$ 200$ i

Lix＿for＿a＿license＿to sell beer at＿retail＿for off＝premises consumption only，the＿same as aretail boer licanse：

Lx」 Any any unit of a nationally chartered veterans＂ organizations fifter－dot＋ars－ts50tth

AH＋－－ticenses－－issued－－in－－any－yeor－shat＋－expire－on－the 3日th－day－of－dtre－at－mitinight－of－sueh－years
（b）A transfer of any surh bremerise wholesalerise or beer cetaileris license may be made on application to the Hontone department of－revente with the consent of the said
departmente provided that seid the transferee shatt－quetify qualifies under this code．Ftwe－－eities－－tant－ineorporeted towns－－may－－enset－oardinanees－defintng－certetn－areas－tn－seid eities－or－towns－where－beer－may－or－moy－not－be－sota－providing that－sord－ordinance－does－not－affect－the－timit－af－retait－beer tieanses－－which－shat＋－be－issued－by－the－Montane－depertant－of Ferenue－tased－upon－the－popthotion－of－the－efty－or－－town－and said－－city－－or－－tomn－－shot＋－－fite－－g－－certified－eopy－of－soid ordinance－with－the－montana－department－of－revenues
（\＆）Ihis code shall not be construed or interpreted so as to repeal，amend，modify，change，or alter any provisions of this code which require beer manufactured outside of the state－of Montana and shipped into Montana to be consigned to and shipped to a licensed wholesaler and by him unioaded into his warehouse or subwarehouse in Montana．

121 Ihe perrit＿fen＿under $6-405(1)$ is conputed＿at the rate＿of＿is＿day for eash＿day beer is sold at those eyents lasting＿2＿or＿more＿days but in no case be less than t3a
（3）The＿perait＿fee＿uader＿6－4－105（2）is＿310for＿the sale at＿beer ooly or＿\＄20 for the＿sale＿of＿all＿alcobolic beveragese

44．Passenger＿carrier licenses shall be issued upon payment ox the applicant of an annual license fee in the sum of．s．lece

65 The annual license fee for a＿license＿to sell＿wine
on_tae_premisese when issued as an amendment te a beer-only Licenser is s200.

161 Faca_license_licensed under the quotas of 4-4-202 shall_pay_an_annual license_fee_as_follous:
(a) except as hereinafter providedı for each_license outside_of incorporated cities_and incorporated tomns of in incorporated_cities and_incorporated towswith_a population of less_than $2 \times 000$ e $\$ 400$ :
(b) except as hereioafter proxidede_fer_each_License in iocorporated cities with_apoplation of more than 2.000 agd_less thao_5,000e teget or mithin a distance of 5 miles thereof measured in_a_straight line_fron the nearest entranceof the prenises to be licensed to the nearest boundary of such_citye $\$ 200 \mathrm{i}$

Lc1 except as hereinafter provided, for each license in_ncorporated cities with_population of more_than_ S,000 and_less_than_10.000_or_rithin_a distancenof_siles thereofn measured in_a stroight line from the_oearest entrance of the oremises to be_licensed to the nearest boundery_of_such_citye_s620i

Ld for each_lisease in_incorporated cities uith_a population of 102000 ar nores_or mithin_a_distance of 5 milzs_thereaf_ measured_in_a_straieht_line_from_the_nearest entrance of the premises to be licensed to the ouarest pquadary of such_city_ seog:
(e) the distance of 5 ailes from the corporate limits of -ank incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the prenisesto be_licensed to the nearest boundary of such_city or touni and wherethe premises of the applicant to be licensed are_situated_within_5_miles of_the corporate boundaries of the or more_incorporated_cities_or incorparated toms of different populationse the license fee chargeable by the larser incorporated city or incorporated torn applies and shall be paid hy the applicante when the premises_of the apolicant ta be licensed are situated within an incorpocated tow or incarporated city and any porthion of the_incorporated tom_or_incorporated_city is_without a s=mile ligit, the Hicense fee chargeable by the smaller incorporated tompor iocorporated_city apolies_and shall be paid_ox the applicante
(i) an applicant for the issuance of an original License_to be located_io_areas described_in paragraph_(d) of this subsection shall_pay_a one=tine_original ficensefeefof 520,040 for any such_license_issuede_The_one-tipe_License fee_ot $\$ 20,000$ shall not_apply_to any transfer or renewal of a license duly issued prior to fuly 1e 1974a_Al1_ Licenses. homever $a r e$ subject te the annual cenewal fee of $\$ 800$.
4) Ine license fees herein provided for are exclusive of aod_in_adition_to other licensefees_chargeable in

Section 11．Section 4－4－403，R－C．M．1947，is amended to read as follows：
w4－4－403．tieense－fee－for－fetait－sete－of－tiquor－within and－without－－eities－－and－towns－of－designated－poputations－－ Census Gensus of population．Each－ticensee－－7teensed－－under the－－quotra－－of－section－4－4－20z－3ha＋＋－par－an－annuth－ticense fee－as－fot7owst
tot－－Exeept－as－hereinefter－providedv－for－－ebeh－－ticense outside－of－ineorporeted－etties－and－ineorporated－townsp－or－in ineorporated－efties－and－incorporeted－towns－wtth－o－peputation of－－tess－Chen－－two－－thousand－CZye日日tr－four－handred－dot＋ors tstert－per－annumt
tbt－Except－as－hereinofter－providedy－for－－ebeh－－tieense in－－ineorporated－－eities－－with－a－poputation－of－more－then－two thowsand－tzve00t－and－tess－than－five－thousand－t5ve日tiv－three hundred－t $536 \theta$ wet－dottors－per－onnumt－or－within－a－distonce－of five－t5t－mittes－thereofy－measured－in－o－straight－tine－from－the nearest－－entranee－of－the－－prewises－－to－－be－treensed－to－the nearest－boundory－of－sueh－eityp－five－hundred－hot＋ars－－ts50et per－annums
fet－－Exeept－－as－－hereinafter－providedv－for－each－tieense in－ineorporated－eities－with－a－poputation－of－more－than－－five
 within－a－distence－of－five－t5t－mites－thereofy－measured－－in－－－
straiqht－－7ine－－from－the－nearest－entrance－of－the－bremises－to be－ti＝ensed－to－－the－－nearest－boundery－－of－－suen－－eityp－－six hondred－fiftr－dot＋ars－t $6650+-p e r-a n n t$
tat－－For－－each－－license－in－－ineorporsted－eities－with－n poputotron－of－ten－thousand－ $\mathbf{t} \mathbf{t 0 \boldsymbol { \theta } \theta 日 \theta + - \text { or－－moreq－of－within－a }}$ distanee－－of－－4tre－t5t－mites－thereofv－messufed－in－a－straight tine－from－the－－nearest－－entronee－of－－the－－prenises－－to－be Heense4－to－the－nearest－bountary－of－sueh－eity－oight－hundred dottors－fse日ef－per－annump
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fft－－Fhe－atstence－of－ftwe－45t－mites－from－the－－corpornte ＋imits－－of－any－ineorporated－－eities－and－ineorporated－towns shełt－be－measured－in－－a－－stratght－－7ine－－from－－the－－netrest entranee－－of－－the－premises－－to－be－－Yieensed－to－the－nearest boundary－of－sulh－eity－or－townt－and－where－the－premises－of－the apptitont－to－be－tieensed－ore－situated－within－five－tst－－wites of－－the－corporate－boundartes－tif－two－tZ†－ar－more－ineorporated eitifes－or－ineorporeted－towns－of－－different－－poputations－－the treense－－ehargeabte－－by－the－－targer－－ineorporated－－eity－－or inearporated－town－shat＋－noply－and－be－paid－by－the－－apptieant＊ providedy－howevery－－that－when－the－premises－of－the－oppticant to－be－ticensed－are－situated－within－an－ineorparated－town－or incorporated－eity－and－any－portion－of－safd－ineorpornted－town or－ineorporated－eity－be－without－said－－five－－t5t－－mite－－timt
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    The.census taken under the direction of fongress
congress of--the-bnited-states-in-the-year-nineteen-mundred
and-tmirtym-and-every-ten-years--thefeaftery shall be the
basis upon which the fespective populations of soid the
municipalities shall be determinedv unless a direct
enumeration of the inhabitants thereof-be is made by the
state or municipal corporation, in which case such later
direct enumeration shall constitute such basiste providedy
howeverg-that-no to census hereafter taken stat+ max be such
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basis until it shot+--nnve--been is published under the autnority under which the same shat+-te is taken, and then its effect shall be orospective only from the date of such publication be-prospective-onty-end-providedy-furtherp-that none-of-the-provisions--of--this-aet--sha+t--be--deened--to operate-retrocetivetr.u

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

4-4-404. Fee for and expiration of bicenses. Effective Each July 1 : t944-and-at-the-game-dete-of-eaen yeor-thereeftefy the Montena department of-revente shall issue licenses to bremersa moleralerse_or retailers_or for the ratail saie of alcoholic beverages fiquor on an anmual basisy and at such fees as are prescribed by law and such licenses shall expire at midnight of June $30 t h 30$ of the succeeding year. The department shall notify each applicant for an original license or renewal that he should inform himself of appicable provisions of federal law which may require a permit from a tederal agency.*

Section 13. Section 4-5-105, Rel.H. 1947, is amended to reac as follows:

44-5-105. Fee to be charged. The county clerk and recorders shall charge and collect a fee of one-dotter-ond fifty-ents-tslo50f from the applicant at the time the application is preparedzi and ene-dot+ar-tsit thereof shall
be transmitted to the montone department of--revente along with the application and shall be used to defray the cost of administering and executing the provisions of this eode chapter. Any surplus shall revert to the general fund of the--stote of Montana. The remaining fifty-cents-tsmot 50 cents shall be paid into the general fund of the county to defray the county's costs in administering this prograna"
Section 14. Section 4-6-102. R.C.M. 1947, is amended to read as follows:
44-6-102. Sale of liquor not purchased from state store forbidden -- penalty. It shat+-be is unlawful for any licensee to sell or keep for sale andfor have on his premises for any purpose whatevery any liquor except that purchased from the state liquor store, and any licensee found in possession of or selling and keeping for salev any liquor which was not purchased from a state liquor storev shall, upon conviction, be fined munished_hy a_fine_of not less than five--hundred--tot+grs--t\$500t--nor or more than fifteen--humdred--dottars--ts1』500t, or be_mulistied by imprisonment for not less than three-t3+ months nor or more tnan one-4ly yeary or by both such fine and imprisonment, and if the department shat+-be is satisfied that any such liquor was knowingly sold or kept for sale within the 7 icensed premises by sueh the licenseet or by his agents, servantsi or employees; it-shet+-be-mandatory-that-soid the

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department shall immediately revoke the incense of-soid +irensee."

Section 15. Section 4-6-205, R.C.M. 1947, is amended to read as follows:
"4-6-205. Unlawful al coholic beverage -- seizure -forfeiture. any investigator or peace officer who finds an alcoholic beveraget which he has reasonable cause to believe is had or kept by any derson in violation of the provisions of this codev may forthwith seize and remove the same and the packages in which the afcoholic beverage is kept, and upon conviction of the person for a violation of any provision of this--section $4=3-102$ the alcoholic beverage and all packages containing the same shall, in addition to any other penalty orescribed by this code, ipso facto be forfeited to the state of Montana."

Section 16. Section 4-6-401, R.C.M. 1947, is amended to read as follows:
a4-6-401. premises where liquor illegally sold public nuisance. Any room, house, building, boat, vehicie, structure or place where alcoholic beverages are knowingly manufactured. soldy or barteredy in violation of this code or seetton 94-8-107 and all property knowingly kept and used in maintaining the same is hereby declared to be a public nuisancel and any person who maintains such a nuisance shall be guilty of a misdemeanory and upon conviction thereof

1 Shall be fined not less than one-hwared-dottars-t $\$ 100=0 \theta+5$
2 nor or more than five-hundred-dottars--t $\$ 500$ t and by
; tmprisonment be imprisoned not less than thirky 10 daysp-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.
-End-

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HOUSE BILL NO. }4
introduced by marks
a bill for an act entitled: man act to revise and clarify the montana alcoholic beverage code in support of RECODIFICATIUN; AMENDING SECTIONS 4-1-304, 4-2-102, 4-2-204* 4-4-105, 4-4-201, 4-4-202, 4-4-301, 4-4-302, 4-4-303, 4-4-401, 4-4-403, 4-4-404, 4-5-105, 4-6-102, 4-6-205, AND 4-6-401; REPEALING SECTIONS 4-1-305, 4-1-307, 4-4-106, AND 4-6-206. R.C.M. 1947."
be it enacted by the legislature of the state df montana:
Section 1. Section 4-1-304, R.C.M. 1947, is amended to read as follows:
"4-1-304. tiquor--division---employees---not--te-be interested-in-7iquor-sales--unlawfut-to-give--or--receive Tiftr-eommission-or--remuneration Prohibited_acts within division. (1) No officer or employee of the liquor divisions including those engaged in the sale of liquor at the vorious state liquor storese shatt may be directly or indirectly interested or engaged in any other business or undertaking dealing in iliquor, whether as owner, part owner, partner, member of syndicate, shareholder, agents or employeet and whether for his own benefit or in a fiduciary capacity for some other person.
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(2) No member or employee of the division or any employee of the state shatl may solicit or receive directly or indirectly any commission, remunerationg or gift whatsoever from any person or corporation having sold* selling. or offering liquor for sale to the state or division in-ptratonce-of pursuant to this code.
(3) No person selling or offering for sale tor or purchasing liquor fromp the state liquor divisionv-shaty max either directly or indirectly offer to pay any comisision. profits or remunerationy or make any gift to any member or employee of the divisione or to any employee of the state, or to anyone on behalf of such member or employee.
(4) The prohibition contained in subsection (3) of this section does not prohibit the division from receiving samples of iiquor for the purpose of chemical testing. subject to the following limitations:
(a) Each manufacturer. distiller. compounder. rectifier, importer, or wholesale distributory or any other person, firm, or corporation proposing to sell any spirituous-+iquors liquor to the Montana liquor division shall submit, without cost to the division prior to the oriqinal purchase, an analysis of each brand and may submit a representative sample not exceeding twenty-five-t25t fluid ounces of such merchandise to the board-fdivision-
(b) ft--shat+-be-the-duty-of-the-divisionv-when khen a
cispor disposition of damaged or defective warehouse or state store merchandise."

Section 2. Section 4-2-102. R.C.M. 1947, is amended to read as follows:
m4-2-102. Containers to be sealed with official seal -- opening package on liquor store premises forbidden. No
brand of liquor has been accepted for testing by the division, to the dirision 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 receivedte suen the records shall show the brand name, amount and from whom received date received, the laboratory or chemist to whom formarded, the division's action on the brand, and the person to whom delivered or other final disposition of the sample.
(5) No liquors wine, or other spirituous alcotolic beverage shatt may be withdrawn from the regular warehouse inventory or from the state liquor stores of the Montana liquor divisiony for any purpose whatsoever other than by sale at the prevailing state retail pricest or for destroying danaged or defective merchandise. The division shall maintain a witten record including the type, brand. and container sizets number of bottles or other units*i ignatures of witnessesti and method of destruction or other
spirits-or-wine-shatl liguor max be sold to any purchasery except in a packaqey sealed with the official seal prescribed by this aet code, which package shat+ may not be opened on the premises of a state store."

Section 3. Section 4-2-204. R.C.M. 1947, is amended to read as follows:
*4-2-204. Department to sell to licensees - posted price. The department is--herebr-authorifed-to max sell through its stores all kinds of liquor, winee and cordials kept in stock to licensees licensed under this code at the posted price thereof in the store in which sefd the liquor is sold. All sales shall be upon a cash basis. The posted price as--used--herefn-shat+-mean means the retail price of such liquor as fixed and determined by the department of revente and in addition thereto an excise and license tax as provided in this act-pforided code."

Section 4. Section 4-4-105, R.C.M. 1947, is amended to read as follows:
"4-4-105. Special permits to sell beer alcoholic bexecages -- application and issuance ---fee. (1)fal Any association or corporation conducting a picnice convention, fairy civic or commity enterprise, or sporting eventy shall in the discretion of the 1 iquor division be entitled to a special permit to sell beer to the patrons of such event to be consumed within the enclosure wherein the event


#### Abstract

is held. (b) The application of any such association or corporation shall be presented ten-tlot days in advance and shall describe the location of such enclosure wherein there such event is to be held, the nature of such the event, and the period wfen it is contemplated that the some exent will be held. fueh Ihe apolication shall be accompanied by the amount of the permit fee hereinefter-provided.

La) The permit issued to such association or corparation shat+--be is a special permity but shall not authorize the sale of beer except starting one-atly day in advance of the reguiar period when events are being held upon such grounds and during the period described in sueh the applicationt and for one-tit day thereafter.

Fhe-permit-fee-shott-be-at-the-rate-of-fifteen-dottors fttst-per-dar-for-each-day-beer-is-sotdy-ar-to-be--sotd-at those--events--tasting-two-fZ\}-er-more-days-but-in-no-event tess-than-thirty-dottars-t $\$ 30 \mathrm{HV}$-hereby-fixed-as-the--minimum fee-for-sueh-permit. (2) Lal tny A post of a nationally chartered veterans* organization or any lodge of a recognized national fraternal ornanizationg not otherwise licensed under this coder shalle 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


permit_to sell all alcoholic bexerages 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" orqanization or ¥odge of a recognized national fraternal organization shall describe the location of the hall or building where the special permit shatl will be used and the date it will be used. fuch-opptieation-sthett-be aecompanized-by-a-perint-fee-of-ten-do+tars-t*tet=
(c) The special permit issued shall be for a twenty-four--fz4\}-hour 24-houl period only ending at 2 a.me ontys and the department shatt may not issue more than twetre--t12t such persits to any such post or lodge during a calendar year."

Section 5. Section 4-4-201. R.C.M. 1947, is amended to read as follows:
m4-4-201. Issuance of retail beer licenses - limit on number of beef cetail iicenses - wine license amendments -retart-treense-fee off=oremises consumption. (1) Except as otherwise provided by law, a license to sell beer at retaily or beer and wine at retail pursuant-to-subsection-tzi, in accordance with the provisions of this oet code and the regutations cules of the department of-revente, may be issued to any person, firms or corporation who shatt-the is approved by the department as a fit and proper person, firmiz

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or corporation to sell beerts providedy except that:
(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of fire-t5t miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by fonaress congress, tommit as follous:
(i) In in incorporated towns of five-mundred-t500t inhabitants or less and within a distance of fire-fty miles from the corporate 1 imits of such towns, not more than one tif retail beer license which shot+ may not be used in conjunction with a retail Hquer all-beverages license;
Liil in incorporated cities or incorporated towns of more than five-hundred- \(\mathbf{f 5 0 0} f\) inhabitants and not over two thousand--42000t inhabitants and within a distance of five tst miles fron the corporate limits of such cities or towns, one t+t beer license for each five-hundred-t500t inhabitants which said-beer-7ieense-shat+ may not be used in conjunction with retail +iquor all-beyerages licenses;
(iiil in incorporated cities of over two-thousand +2,000t inhabitants and within a distance of five-f5t miles from the corporate 1 imits of such cities, two tif additional
``` retail beer licenses for the first two-thousand--t2,000t
inhabitants or major fraction thereof and one tit additional retail beer license for each additional two-thousand-t2s000t inhabitants which shatt may not be used in conjunction with retail 7 fquor all-beverages licenseswi
(b) The the number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five-t5t miles from the corporate limits thereofy shall govern the number of retail beer licenses that may be issued for use within such cities and towns and within a distance of five-t5t miles from the corporate limits thereafte providedr-thot-where If two tet or more incorporated municipalities are situated within a
 of retail beer licenses that may be issued for use in both of such municipalities and within a distance of five-tst miles from their respective corporate limitsy shall be determined on the basis of the combined populations of both of such municipalities and shot+ may not exceed the foregoing limitations. The sefd distance of five-tst miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town.
(c) Retait retail beer licenses of issue on the-date of-the-passage-omd-approvat-of-thrs-aet Macch_7e_1947. and
organization has been in existence for a period of five t5t years or more prior to January 1,1949 in
(e) the number of retail beer licenses that the department dax issue for use at premises situated outside of any incorporated city or incorporated town_and outside_of the area mithin a distance of 5 miles from the corporated limits thereof or for use at premises situated_eithin_any unincorporated toun shall be as determined by the department in the exercise of its sound discretione except that no retail beer license loy be issued for any premises_so situated unless the department determines thet the issuance of such license is required_bx public convenience_and necessity.

121 Ihe cities and incorporated torns may enact renewable, but no new licenses shatt fay be issued in


 G日NYEHENEE-AH日-NEEESSIII; providedr-that
(d) such limitations shott de not prevent the issuance of a nontransferable and nonassignable retail beer license to bny a post of a nationally chartered veterans. organization or ony a lodge of a recognized national fraternal organizationy if such veterans" or fraternal organization has been in existence for a period of five
ordinances_defining certain_areas in the cities and tomas where alcoholic beverages may or may not be solde No incorporated city or incorporated town may by ordinance restrict the number of licenses that the department may issuets prowidedthot Hoyeyers no retail beer license may be issued by the department for any premises situated within any zone of such city or town wheretn where the sale of beer or liquor is prohibited by ordinance, a certified copy of which has been filed with the department. The department shatt-have-dtseretion-to may deny the issuance of a retall beer or all-beverages license if it shetl--determine deternines that the premises proposed for licensing are off regular police beats and cannot be properiy policed by local authorities.
tht--Fhe-number--of--retoit--beer--i+ieenses-chet--the department-may-issure-for-use-at-premises-situated-outside-of any-incorporated-eity-or-inearporeted-town-and-outside-of the-area-within-t-distance-of-mire--t5t-mttes-from-the eorporated-4+m+ts--thereofy-or-for-use-at-orentses-situbted wfthin-any-unincorporated-town-shat+-be-as-deterwined-by-the deportment--in--the--exeretse-of--its---sound---diseretiont proyidedy--thot--no--retait-beer-lieense-shet+-be-issued-for any-premises-so-situeted--untess--the--department---shot+ determine--that-Che-issuance-of-sueh-ificense-is-required-by pubtic-convenience-and-neeessity
tziti31 A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine os well as beer. The division may issue such amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared food prepared-food business. A person holding a beer-and-wine license may seli wine for consumption on the premises. He may buy wine only at retail from the department. Nonretention of the beer license, for whatever reason, shall mean automatic loss of the wine amendment license.
f3t-7he-onnwat-7ieense-fee-for-o-fieense-to-set+--wine on--the-prewtsesy-when-issued-as-an-amendment-to-a-beer-onty 7ieense-shet+-be-two-hundred-doHers-fszeot=
(4) A retail license to sell beer in the original packages for off-premise off-arenises consumption only may be issued to any person, firme or corporation who shot+--be is approved by the department as afit and proper person, firme or corporation to sell beer and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore licensed as a pharmacy. The number of such licenses that the department may issue shott is not be limited by the provisions of subsection (1) of this sectiont
but shall be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause. Fhe-onnuat-license-fee-for-a-ticense-to-sett-beer-ot retait-for-off-premises-consumption-9hot+-be-the-same-os-for --retart-beer-+ieensew"

Section 6. Section 4-4-202. R.C.M. 1947, is amended to read as follows:
"4-4-202. A+t-beverage All-beverages license quotá. +t Except as otherwise provided by law, a license to sell liquor, beerg and wine at retail, an all-beverages license, in accordance with the provisions of this code and the regulations cules of the monteno department of-revenue, may be issued to any person who shatt-be is approved by the department as a fit and proper person to sel? such beverageste providedv except that:
totul the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns andwithin a distance of fire-f5t miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by Eongress songress. to-wit as follows:
(a) In in incorporated towns of five-hundredt 500 inhabitants or less and within a distance of five-t5y miles from the corporate limits of such towns, not more than two tet retail licenses

1b) in incorporated cities or incorporated towns of more than five-handred-f500f inhabitants and not over three thorsand- \(\mathbf{3 n}_{2} 000 \boldsymbol{f}\) inhabitants and within a distance of five t5 miles from the corporate limits of such cities and towns, three \(+3+\) retail 1 icenses for the first one-thousand t12000t inhabitants and one \(+\boldsymbol{H}\) retail license for each additional one-thousand-tle000 inhabitants

Lc) in incorporated cities of over three-thousond t32000t inhabitants and within a distance of five-t5t miles from the corporate 1 imits thereaf, five tht retail licenses or the first three-thousind \(\mathrm{fl}_{3} \mathrm{mont}\) inhabitants and one \(\boldsymbol{t}+\) retail license for each additional one-thousond-fire-hondred +1.500t inhabitants.
(2) The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five- \(\mathbf{t h t}^{5}\) miles from the corporate limits thereof, shall govern the number of retail licenses that may be issued for use within such cities and towns and within a distance of five--t5t miles from the corporate limits thereof*i providedy-howeverv-thot-where If two tzi or more incorporated municipalities are situated within a
distance of five-t5t miles from each other, the total number of retail iicenses that may be issued for use in both of such municipalities and within a distance of five-t5t miles from their respective corporate limitst shall be determined on the basis of the combined population of both of such municipalities and shet+ nay not exceed the foregoing limitations. Notwithstanding the preceding sentence; the total population for determining the quota of a city may includey with the cityes populationt the population residing outsider but within five-t5t miles of the city limits in a case where the number of persons residing outside but within five-t5t miles of the city exceeds the number of persons residing within the city. Such a determination may be made only upon a special censijs taken by the department or its aqent at the expense of the applicant for a license under this section. The sord distance of fire-t5t miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of sueth the city or tome
13) Retail all-beveraqes licenses of issue on the-date of-the-persoge-ond-approvat-of-this-eode March_Is 19472 and which are in excess of the foregoing fimitations shall be renewable, but no new licenses shrtt max be issued in violation of such limitations



(4) Such 1 initations shaty do not prevent the issuance of a nontransferable and nonassiqnable fas to ownership only) retail license to any post of a nationally chartered veterans* organization or any lodge of a recoonized national fraternal orqanization if such veterans* or fraternal organization has been in existence for a period of five-t5t years or more prior to January 1, 1949. No-ineorporeted eity-or--incorporated--town--mby-by-ordinanee-restriet-the number-of-7ieenses-thet-the-department-may--issuer--prowided that--no-retai+-7ieense-may-be-issued-by-the-deportment-for any-premises-sitwated-within-any-zone-of-a-metty-or--town wherein--the--sate--of--7iquor-is-prohibited-by-ordinancey-a certified-copy-of-whieh-has-been-fited-with-the--depertmentw Fhe-department-sha+t-have-diseretion-to-deny-the-issuonee-of a--retart--+ieense--if--ft-shat+-determine-that-the-premises proposed-for-fieensing-are--off--regutor--potiee--bets-ond connot-be-property-potieed-by-tocot-atthorities-
tbt151 the Ihe number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five-tst miles from the corporate 1 imits thereofr-shatt-be may not be more than
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one tzt license for each seven--mundred---fifty--ti50t
population of the countyp 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:
m4-4-301. Application for all-beverages license --
penalty for false statements. H/ Prior to the issuance of
a an_all-beverages license as merein provided in_4-4-202,
the applicant shall file with the Montone department of
revente an application in writing, signed by the applicantr
and containing such information and statenents relative to
the applicant and the premises where the alcoholic beverage is to be soldy as may be required by the department.
(2) The appication shall be verified by the affidavit of the person making the same before a person authorized to administer oaths. If any false statement is made in any part of sard the application, the applicanty or applicantst sha++--be--deemed are quilty of a misdemeanors and upon conviction thereof the license, if issued. shall be revoked and the applicanty or applicantst subjected to the penalties provided by law."
Section B. Section 4-4-302. R.C.M. 1947. is amended to read as follows:
44-4-302. Notice of application -- Dublication -protest. 41 When an application has been filed with the

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Montone department of--pevenue for a license to sell alcoholic beverages at retaily or to transfer such license, the department shatl promptly oublish in a newspaper of general circulation in the city, town or county from whence streh which the application shot+-eame conesp a notice that such applicant has made application for such licenser and that protests aqainst the issuance of a license to the applicant will be heard at a time and place stated in the notice, which shall be in the city of Helena, MontanaNotice of application for a new license shall be published once a week for four--t4t consecutive weeks. Notice of application for transfer of a license shall be published once a week for two-t \(2 \boldsymbol{t}\) consecutive weeks. Notice may be substantially in the following form:
NOTICE OF APPLIGATION FOR RETAIL

\section*{mll-beverages license}
Notice is hereby given that on the .... day of ..... 19.e. one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue, to be used at (describe location of premises where treense-is heyerages are to be sold), and protests. if any there be, aqainst 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 revenuep in Helena, Montana.
signed ....... ADMINISTRATOR
(2) No license sho++ max be issued until on or after the date set in the notice for hearing protests. Nor shott gay a license under this code be issued if the serd-Montone department of-revenue-shot+-find finds from the evidence at sefd the hearing that the welfare of the people residing in the vicinity of the place for which such license is desired will be adversely and seriously affectedy or that the purposes of this code will not be carried out by the issuance of such license. Each applicant shall, at the time of flling his application. pay to the Momtene department of reventey an amount sufficient to cover the costs of publishing said the notice."

Section 9. Section 4-4-303, R.C.M. 1947, is amended to read as follows:
-4-4-303. Investigation of application. Upon receipt of a completed application for a icense under this code, accompanied by the necessary license fee and-bond, the department of--revente shall within thirty- \(\mathbf{4 0} \mathbf{3 0}\) days thereofterveause-to-be-made make a thorough investigation of all matters pertaining theretor and shall determine whether such applicant is qualified to receive a license and his premises are suitable for the carrying on of the businessy and whether the requirements of this code and the
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rules and-regutations promulgated by the department are met
and complied with.m
Section 10. Section 4-4-401, R.C.M. 1947, is amended
to read as follows:
M4-4-401. Fees for licenses ----expirotion-detes---
regutotion--by-eities-and-towns. L1L(a) Each beer licensee,
under the provisions of this code, shall pay an annual
license fee as follows:
Lis fach each mbrewer:" wherever located, whose
product is sold or offered for sale within the state, five
hundred-dot+arg-t\$500t; for each_storage depote_\$400;
LiLI Eech each Ewholesalerme four-mundred--dot+ors
t\$400%;

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4\$2007; mith a{ine_license_amendsent_an_additional \$200:
Livifor a license to sell beer at retall for
off-premises consumption only, the_same_as a_retail beer
License:
[v] *my anx unit of a nationally chartered veterans"
organizatione fifty-dot7ars-f\$50+ta
A+t--tieenses--issued-in-ony-year-sha++-expire-on-the
F0th-dey-of-Jure-at-midn+ght-of-3veh-year:
(b) A transfer of any suth brewer's, wholesaleriss or
begr retaileris license may be made on application to the
Montone department of-revenue with the consent of the sard

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fepartmente provided that serd the transferee smatt-quatify qualifies under this code. Fhe--eities--and-ineorporoted towns--may--eneet--ordinances-defining-certein-areas-in-soid eities-or-tawns-where-beer-may-or-may-not-be-sota-providing thet-seid-ordinance-does-not-affect-the-timit-of-retai+-beer tieenses--whieh-shat+-be-issued-by-the-Mont ano-department-of revente-based-upon-the-populetion-of-the-eity--or-town--and soid--eity--or--town--shat7-fitie--b--eertifited-copy-of-satd ordinonce-with-the-Montana-deportment-of-revenues
(c) This code shall not be construed or interpreted so as to repeal, amend, modify, change, or alter any provisions of this code which require beer manufactured outside of the state-of Montana and shipped into Montana to be consigned to and shipped to a licensed wholesaler and by him unloaded into his warehouse or subwarehouse in Montana.
(21) The permit fee under \(4-105(1)\) is conputed at the rate of \(\$ 15\) a day for each day beer is sold at those eyents lasting 2 or more days tut in no case be less than \(\$ 30\) :
(3) The permit fee under 4-4-105(2) is s10 for the sale of beer only or 120 for the sale of all alcohalic beyeragese
(4) Passenger carrier licenses shall be issued unon payment by the applicant of an annual license fee in the sum of \(\$ 300\).
(5) The annal licence fee for a license to sell wine
on the premisese when issued as an amendment to a beer-only licenser is 5200 e
161. Fach licensee licensed under the quotas of 4-4-202 shall oay an anoual license fee as follows:

1al except_as hereinafter providede for each license outside of incorporated cities and incornorgted tonos or in incorporated cities_and incorporated toms mith a population of less than 2e000. \(\$ 400\) :
(b) except as hereinafter providede for each License in incorporated cities with a population of more than_2,000 and Tess than 5,0002 s 3001 or within distance_of 5 -iles thereofe measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such citye 1500i
(c) except as hereinafter proxidede for eacb license in incorporated cities with a population of more than 5.000 and less than 10000 or within a distance of 5 miles thereofe measured_in_a_straight_line_from_the_nearest entrance of the premises to be licensed to the nearest boundary of such city, \$650:
(d) for each licease in incorporated fities with a population of 10,000 or mores or within a distance of 5 niles thereofe measured in_a straight_line_from the nearest entrance of the premises to be licensed to the nearest boundary of such_fitys 5800 :
(e) the distance of 5 viles from the corporate limits of any incorporated_cities and incorporated toms is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city or torni and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of tro or more_incorporated_ cities_or incorporated towns of diffecent papulations. the License fee chargeable by the larger incorporated city or incorporated coun applies and shall be paid by the applicante when_the premises of the applicant to be licensed are situlated_within an incorporated tovn of incorporated city and any portion of the incorporated toun or incorporated city is without a 5-8jle limite the license fee chargeable by the smaller incorporated town or incorporated_city applies and shall be paid by the applicanta
(f) an applicant for the issuance of an original license to be located in areas_described in paragraph_(d) of this subsection shall pax a one-time original license fee of 520,000 for any such license issued. The one-tine_license fee of 520,000 shall oot anply to any transfer or renemal of a_license duly issued prifor to July 1 . 1974 e All Iicensese however, are_subject to the annual renewal fee of \(\$ 800\).
(1) The license fees hersin provided for are exclusive of and in addition to other license fees chargeabie in
Montana for the sale of liquore beere and malt beveragese＂
Section 11．Section 4－4－403，R．C．M．1947，is amended to read as follows：
－4－4－403．ticense－fee－for－retait－sate－of－tiquor－within and－－without－－eities－－ond－town－of－designoted－poputations－－－ eensus Census of population．Eech－ticensee－－tieensed－umder the－quotas－－of－－seet＋on－4－4－29z－3hot＋－prey－an－ammot－7ieense fee－es－fot7owst
tot－Exeept－as－hereinefter－providedy－for－each－－ticense outside－of－ineorpor oted－etties－ond－ineorporeted－townsy－or－in ineorpornted－eitifes－and－ineorporeted－towns－with－t－poptltetion of－－7ess－－thon－－two－thousand－（Zy00日）v－four－hundred－tothers ts400t－per－annumt
fbi－Exeept－es－hereinafter－providedv－for－－each－－7icense in－ineorporated－eitites－with－o－poputation－of－more－then－two thousand－tきve日et－and－tess－than－five－thous and－45ve日etr－three hundred－t 4360 we日t－dotters－per－annumt－or－within－o－distanee－of fire－tst－mites－thereofr－meosured－in－o－strataht－tine－from－the nearest－－entranee－of－the－－premises－to－be－titeensed－to－the nearest－boundary－of－surh－eityr－five－hundred－－dot7ors－－（5500） per－annumt
tej－Exeept－－bs－－hereinofter－providedy－for－eseh－Hieense in－ineorporated－cities－with－a－poputation－of－more－than－－tive
 within－a－distance－of－five－t5t－mites－thereofv－messured－in－in
straitht－－tine－－from－the－nesrest－entrance－of－the－premises－to be－tieensed－to－－the－nearest－－boundary－－of－－surh－eityp－－six

tdt－－For－－each－－Hicense－－in－ineorporated－efties－with－0
 distance－－of－－five－i5t－mites－thereofv－measured－in－a－straight tine－from－－the－－meorest－－entrance－－of－the－premises－－te－be tieensed－to－the－neerest－houndery－of－such－eity－eight－hundred dottars－tse日et－per－onnumt
tef－－for－－esch－－rof＋way－system－in－the－stote－of－Montanen three－hundred－t \(4300=0 \theta+\)－dotlars－per－annumt
t＋t－－Fhe－distanee－of－five－t5i－mites－from－the－eorporate timits－－of－－ony－－ineorporated－etties－and－ineorporated－towns shat7－be－measured－in－－a－－stroight－－tine－－from－－the－mearest entronce－－of－the－－premises－－to－be－－tieensed－to－the－nearest boundery－of－sueh－city－or－townt－and－where－the－premises－of－the applitennt－to－be－tieensed－are－situoted－within－fire－f5t－mites of－－the－eorporgte－boundaries－of－two－tZt－or－more－ineorporaten eities－of－incorporated－touns－of－－different－－poputations－－the tieense－－chargeable－by－－the－－7orqer－－ineorpornted－－city－or incorporated－town－shatz－apply－and－be－paid－by－the－apptieants； providedy－－howevery－－that－when－the－premises－of－the－noptiteont to－be－ticensed－ore－situbted－within－an－tneorporatect－town－or ineorporated－－eity－and－any－portion－of－stid－incorpornted－town or－ineorporated－eity－be－without－said－－five－－t5t－mite－－4imit
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said-one-time--treense--fee-of--twenty--thousan+--dottars
t\$20,000t--shot7--not--apply-to-any-transfer-or-menewet-of-0
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huntred-dottars-t+00et%
Fhe--7ieense--fees-herein-provided-for-are-exetusive-of
ond-in-addition-to-other--i+icense--fees--Chergeabte--in--the
state--of-Montane--for--the--sete--of-7iquorr-beer-end-matt
bevernmes*
The census taken under the direction of Eongress
cangress of--the-Hnited-5tates-in-the-year-nimeteen-hundred
and-thirtyp-and-every-ten-years--thereeftery shall be the
basis upon which the respective populations of serd the
municipalities shall be determinedv unless a direct
enumeration of the inhabitants thereof-be is made by the
state or municipal corporation, in which case such later
direct enumeration shall constitute such basisve ororidedy
howeverv-that-no No census hereafter taken shatl may be such

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\(-25-\)
basis until it shat+-have-been is published under the
authority under which the same sha子t-be is takeng and then
its effect shall be prospective onlx from the date of such
publication be-prospect+ve-onty-and-providedr-furthery-that
none-of-the-provisions--of--this-aet--shat7-be-deemed-to
operate-retroactivety."
    Section 12. Section 4-4-404, R.C.M. 1947, is amended
to read as follows:
    \({ }^{4} 4-4-404\). Fee for and expiration of licenses.
Effeetive Each July 1, 4944-ond-at-the-srame-dere-of-each
year-thereaftery the Montans department of-revenue shall
issue 1 ifenses to brewerse wholesalerse or retailers or for
the retail sale of alcoholic beverages + +quor on an annal
basisy and at such fees as are prescribed by law, and such
licenses shall expire at midnight of June 30 th 30 of the
succeeding year. The department shall notify each applicant
for an original license or renewal that he should inform
himself of applicable provisions of federal law which way
require a permit from a federal agency."
    section 13. Section 4-5-105. R.C.M. 1947. is amended
to read as follows:
    *4-5-105. Fee to be charged. The county clerk and
recorders shall charge and collect a fee of one-tottar-and
fiftryeents-tsi.50t from the applicant at the time the
application is preparedvi and 日me-dot+ar-tsit thereof shall
\(-26-\)

\begin{abstract}
be transmitted to the Montona department of-revenue along with the application and shall be used to defray the cost of administering and executing the provisions of this eode chapter. Any surplus shall revert to the general fund of the-stegte of Montana. The remaining fifty-eents-tsubt 50 cents shall be paid into the general fund of the county to defray the county's costs in administering this program.w

Section 14. Section 4-6-102. R.C.M. 1947, is amended to read as follows
"4-6-102. Sale of liquor not purchased from state store forbidden -- penalty. It shat+-be is unlawful for any licensee to sell or keep for sale ondfor have on his premises for any purpose whatevery any liquor except that purchased from the state iiquor store, and any licensee found in possession of or selling and keeping for saley any liquor which was not purchased frow a state liquor storev shall, upon conviction, be fimed punished by a fine of not less than five-hundred-dot+ars--t\$500t--nor or more than fifteen--hundred--dottors--t \(\$ 1,500 t\) or be punished by imprisonment for not fess than three-f3t months nor or more than one-fit yeary or by both such fine and imprisonment. and if the department shat+be is satisfied that any such iquor was knowingly sold or kent for sale within the licensed premises by surh the licenseey or by his agents. servantsi or employees, it-shat+-be-mendetory-that-soid the
\end{abstract}
department shall immediately revoke the license of-atid tieensee."

Section 15. Section 4-6-205. R.C.M. 1947. is amended to read as follows:
"4-6-205. Unlawful alcoholic beverage - seizure -forfeiture. Any investigator or peace officer who finds an alcoholic beveragey which he has reasonable cause to believe is had or kedt by any person in violation of the provisions of this coder may forthwith seize and remove the same and the packages in which the alcoholic beverage is kept, and upon conviction of the person for a violation of any provision of this--section 4-3-102n the alcoholic beverage and all packages containing the same shall, in addition to any other penalty prescribed by this code, ipso facto be forfeited to the state of montana."

Section 16. Section 4-6-401, R.C.M. 1947, is amended to read as follows:
m-6-401. Premises where ifquor illeaally sold public nuisence. Any roomit house, building, boat, vehicle, structure or place where alcoholic beveraqes are knowingly manufactured. sold, or barteredy in violation of this code or seetton 94-8-107 and all property knowingly kept and used in maintaining the same is hereby declared to be a public nuisancez and any person who maintains such a nuisance shal be gulity of a misdemeanory and upon conviction thereof
shall be fined not less than ome-hundred-dot+arg-ts 100 -00tr nor or more than five--hundred--dottors-- \(\$ 500\) and by fmprisonment be imprisoned not less than thirty 30 daysp-nor or more than \(s+\times 6\) months. \({ }^{*}\)

Section 17. Repealer. Sections 4-1-305, 4-1-307, 4-4-106, and 4-6-206. R.C.M. 1947, are repealed.
-End-```


[^0]:    feififg of-wnemall liguor day be sold to any purchasery except in a packaget sealed with the official seal prescribed by this code, wich package shat may not be opened on the prewises of a state store."

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

    14-2-204. Department to sell to licensees - posted price. The department is befoby-zuthofised-te nay seil through its stores all kinds of liquor, wine and cordials kept in stock to licensees licensed under this code at the posted price thereof in the store in wich the liquor is sold. All sales shall be upon a casb basis. The posted price de-msed herein shall-tat megns the retail price of such liguor as fired and deterained by the departaent of feverte and in addition thereto an excise and license tax as provided in this at peerided code."

    Section 4. Section 4-4-105. R.C. A. 1947. is amended to read as follows:
    "4-4-105. special permits to sell alcoholic beverages -- application and issuance (i) fal my association or corporation conducting a picnic, convention, fair, civic or comanity enterprise, or sporting eventy shall in the discretion of the liquor division be entitled to a special permit to seij beer to the patrons of such event to be consuned within the enclosure wherein the event

[^1]:    toundaries_of tyo _or_ngre incorporated__cities_or incorporated touns of different popylations, the license_fee chargeable_by the larger incorporateg_city or incorporated torn_applies_and_shath be paid br the applicant, 早hen the premises of the applicant to be licensed are situated uithin an incorporated torn or incorporated city andany pcrtion_of tie_ incorporated_toun or_incorporated_city is rithout_a 5-星ile linit, the license fee chargeable by the spaller incorporated tovn or incorporated_city_applies_and shali be paid by the_agplicant.
    (f) an applicant for the issuance of an original license to be located in areas described in paragraph (d) of this_subsection_shall pay a one-time original license fee of \$20.00C_for any such license_issued. The onetime_license fee_of $\$ 20.000$ sha11 not apply to any transfer or rebebal of a license_duly issued_prior to_July 1e 1974_All_licenses, howevere are subject to the_abnuai renegal fee of 8800 .
    (7) The_license feesherein provided for are exclusive of _and_in addition to other license fees chargeable in Montana for the sale of liguore beer and nalt beverages. "

    Section 11. Section 4-4-403. R.C.A. 1947, is amended to read as follows:
    
     genets Census of population. Eagt-tiencee-ligensed-wndez

[^2]:    inhabitants or major fraction thereof and one $H^{H}$ additional retail beer license for each additional wo－thomend－f2000t inhabitants ubich matz nay not be used in conjunction with retail tiquef all－beverages licenses－i

    SL The the nomber of the inhabitants in such cities and touns，erclusive of the number of inbabitants residing vithin a distance of fiternt files frou the corporate limits thereof，shall govern the ounber of retail beer licenses that may be issued for use within such cities and towns and within a aistance of fire－45 ales from the corparate linits thereoft，PFeridat，that－where If tvo fat or more incorporated monicipalities are situated vithin a or more incorporated moncipalities are situated vithin a
    distance of fime－f5t miles from each other，the total nuaber of retail beer licenses that may be issued for ose in both of such maicipalities and within a distance of firer 5 miles froe their respective corporate limitst shall be detersined on the basis of the conbined populations of both of such maicipalities and whety say not exceed the
    
     incorporated toun shall be measured in a straight line from the nearest entrance of the preaises proposed for licensing to the nearest corporate boundary of such city or town．
    （c）fetait retail beer licenses of issue on the date of the－paceage－and－appronat－ef－tbic－act HaIch＿7e＿1947．and

[^3]:    is held.
    ELIne application of any such association or corporation shall be presented ten-flot days in advance and shall describe the location of such enclosure wherein where such event is to be held, the nature of streh the event, and the period when it is contemplated that the same exent will be held. Sueh Ihe application shall be accompanied by the amount of the permit fee merednefter-provided.
    (c) The permit issued to such association or corporation shott-be is a special permity but shall not authorize the sale of beer except starting one--tit day in advance of the regular period when events are being held upon such grounds and during the period described in suen tae applicationt and for one-tit day thereafter.

    Fhe--permitt-fee-shoth-be-ot-the-rate-of-fifteen-dobtars tstsi-per-day-for-eacin-day-beer-is-sotdy-or-te-be--sotd-at those--ewents--tosting-two-tZt-or-more-deysy-but-in-no-event tess-than-thirty-dot子ars-f 530 tr-herebr-fixed-as-the-- minimum fee-for-sueh-permitw
    (2) Lal thy a post of a nationally chartered veterans* organization or any a lodge of a recounized national fraternal organizations not otherwise licensed under this codey shallz in the discretion of the department, without notice or hearing as provided in section 4-4-302, be entitied to a special permit to sell beer or anspecial

