

1 H BILL NO. 337
 2 INTRODUCED BY Conroy Essinger Colburn

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
 5 FLOATING TAVERN LICENSE; AMENDING SECTION 4-4-206, R.C.M.
 6 1947."
 7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 4-4-206, R.C.M. 1947, is amended to
 10 read as follows:

11 "4-4-206. Contents of license -- posting -- privilege
 12 -- transfer -- expiration. (1) Every license issued under
 13 this code shall set forth the name of the person to whom
 14 issued, the location by street and number, or other
 15 appropriate specific description of location if no street
 16 address exists, of the premises where the business is to be
 17 carried on under said license, and such other information as
 18 the department shall deem necessary. If the licensee is a
 19 partnership or if more than one person has any interest in
 20 the business operated under the license, the names of all
 21 persons in the partnership or interested in the business
 22 must appear on the license. Every license must be posted in
 23 a conspicuous place on the premises wherein the business
 24 authorized under the license is conducted and such license
 25 shall be exhibited upon request to any authorized

1 representative of the department or to any peace officer of
 2 the state of Montana.

3 (2) Any license issued under the provisions of this
 4 code shall be considered a privilege personal to the
 5 licensee named in the license and shall be good until the
 6 expiration of the license, unless sooner revoked or
 7 suspended. A license may be transferred to the executor or
 8 administrator of the estate of any deceased licensee when
 9 such estate consists in whole or in part of the business of
 10 selling liquor under a license and in such event the license
 11 may descend or be disposed of with the business to which it
 12 is applicable under appropriate probate proceedings.

13 (3) In the event of a major loss or damage to licensed
 14 premises by unforeseen natural causes, or in case of
 15 expiration of lease of the licensed premises, or in the
 16 event of eviction or increase of rent by the landlord, in
 17 case of rented, licensed premises, or in case of proposed
 18 removal of license to premises as substantially suited for
 19 the retail liquor business as the premises vacated, the
 20 licensee may apply to the department for a transfer of the
 21 license to a different premises, the department may in its
 22 discretion permit a transfer in such cases if it appears to
 23 the department that such a transfer is required to do
 24 justice to the licensee applying for the transfer. The
 25 department shall in no event, nor for any cause, permit a

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1 transfer to a different premises where the sanitary, health
2 and service facilities are less satisfactory than such
3 facilities which exist or had existed at the premises from
4 which the transfer is proposed to be made.

5 (4) Upon a bona fide sale of the business operated
6 under any license the license may be transferred to a
7 qualified purchaser. No transfer of any license as to
8 person or location shall be effective unless and until
9 approved by the department and any licensee or transferee or
10 proposed transferee who operates or attempts to operate
11 under any supposedly transferred license prior to the
12 approval of such transfer by the department, endorsed upon
13 the license in writing, shall be considered as operating
14 without a license and the license affected may be revoked or
15 suspended by the department; however, the department may,
16 within its discretion permit a qualified purchaser to
17 operate the business to be transferred pending final
18 approval, providing the application for transfer has been
19 filed with the department.

20 ~~(a) A license may be transferred to a new ownership~~
21 ~~and to a location outside the quota area for which it was~~
22 ~~originally issued only when the following criteria are met:~~

23 ~~(i) the total number of all beverages licenses in the~~
24 ~~original quota area exceeded the quota for that area by at~~
25 ~~least twenty-five percent (25%) in the most recent census;~~

1 and

2 ~~(ii) the total number of all beverages licenses in the~~
3 ~~quota area to which the license would be transferred did not~~
4 ~~exceed that area's quota by more than twenty-five percent~~
5 ~~(25%) in the most recent census; and~~

6 ~~(iii) the department finds after a public hearing~~
7 ~~that the public convenience and necessity would be served by~~
8 ~~such a transfer;~~

9 ~~(b) A license transferred between quota areas under~~
10 ~~this section may not be mortgaged or pledged as security~~
11 ~~and may not be transferred to another person, except for a~~
12 ~~transfer by inheritance upon the death of the licensee. A~~
13 ~~license transferred between quota areas under this section~~
14 ~~may be held only by natural persons. For the purpose of~~
15 ~~this section, natural persons shall not include limited~~
16 ~~partnerships or other business entities of any kind in which~~
17 ~~each natural person is not a full participant in the~~
18 ~~ownership and operation of the business authorized by the~~
19 ~~license.~~

20 Except as above provided, no license shall be
21 transferred or sold, nor shall it be used for any place of
22 business not described in the license, provided however,
23 that such license may be subject to mortgage and other valid
24 liens, in which event the name of the mortgagee, upon
25 application to and approval of the department, must be

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1 endorsed on the license. All licenses shall expire at
2 midnight of June thirtieth of each year."

-End-

Approved by Committee
on Business and Industry

1 HOJSE BILL NO. 337
2 INTRODUCED BY CONROY, DASSINGER, COLBJRN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
5 FLOATING TAVERN LICENSE; AMENDING SECTION 4-4-205, R.C.M.
6 1947."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 4-4-206, R.C.M. 1947, is amended to
10 read as follows:
11 "4-4-206. Contents of license -- posting -- privilege
12 -- transfer -- expiration. (1) Every license issued under
13 this code shall set forth the name of the person to whom
14 issued, the location by street and number, or other
15 appropriate specific description of location if no street
16 address exists, of the premises where the business is to be
17 carried on under said license, and such other information as
18 the department shall deem necessary. If the licensee is a
19 partnership or if more than one person has any interest in
20 the business operated under the license, the names of all
21 persons in the partnership or interested in the business
22 must appear on the license. Every license must be posted in
23 a conspicuous place on the premises wherein the business
24 authorized under the license is conducted and such license
25 shall be exhibited upon request to any authorized

1 representative of the department or to any peace officer of
2 the state of Montana.

3 (2) Any license issued under the provisions of this
4 code shall be considered a privilege personal to the
5 licensee named in the license and shall be good until the
6 expiration of the license, unless sooner revoked or
7 suspended. A license may be transferred to the executor or
8 administrator of the estate of any deceased licensee when
9 such estate consists in whole or in part of the business of
10 selling liquor under a license and in such event the license
11 may descend or be disposed of with the business to which it
12 is applicable under appropriate probate proceedings.

13 (3) In the event of a major loss or damage to licensed
14 premises by unforeseen natural causes, or in case of
15 expiration of lease of the licensed premises, or in the
16 event of eviction or increase of rent by the landlord, in
17 case of rented, licensed premises, or in case of proposed
18 removal of license to premises as substantially suited for
19 the retail liquor business as the premises vacated, the
20 licensee may apply to the department for a transfer of the
21 license to a different premises, the department may in its
22 discretion permit a transfer in such cases if it appears to
23 the department that such a transfer is required to do
24 justice to the licensee applying for the transfer. The
25 department shall in no event, nor for any cause, permit a

SECOND READING

1 transfer to a different premises where the sanitary, health
 2 and service facilities are less satisfactory than such
 3 facilities which exist or had existed at the premises from
 4 which the transfer is proposed to be made.

5 (4) Upon a bona fide sale of the business operated
 6 under any license the license may be transferred to a
 7 qualified purchaser. No transfer of any license as to
 8 person or location shall be effective unless and until
 9 approved by the department and any licensee or transferee or
 10 proposed transferee who operates or attempts to operate
 11 under any supposedly transferred license prior to the
 12 approval of such transfer by the department, endorsed upon
 13 the license in writing, shall be considered as operating
 14 without a license and the license affected may be revoked or
 15 suspended by the department; however, the department may,
 16 within its discretion permit a qualified purchaser to
 17 operate the business to be transferred pending final
 18 approval, providing the application for transfer has been
 19 filed with the department.

20 (a) A license may be transferred to a new ownership
 21 and to a location outside the quota area for which it was
 22 originally issued only when the following criteria are met:
 23 (i) the total number of all beverages licenses in the
 24 original quota area exceeded the quota for that area by at
 25 least twenty-five percent (25%) in the most recent census

1 and

2 (ii) the total number of all beverages licenses in the
 3 quota area to which the license would be transferred did not
 4 exceed that area's quota by more than twenty-five percent
 5 (25%) in the most recent census; and

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

9 (b) A license transferred between quota areas under
 10 this section may not be mortgaged or pledged as security
 11 and may not be transferred to another person, except for a
 12 transfer by inheritance upon the death of the licensee. A
 13 license transferred between quota areas under this section
 14 may be held only by natural persons. For the purpose of
 15 this section, natural persons shall not include limited
 16 partnerships or other business entities of any kind in which
 17 each natural person is not a full participant in the
 18 ownership and operation of the business authorized by the
 19 license.

20 Except as above provided, no license shall be
 21 transferred or sold, nor shall it be used for any place of
 22 business not described in the license, provided however,
 23 that such license may be subject to mortgage and other valid
 24 liens, in which event the name of the mortgagee, upon
 25 application to and approval of the department, must be

1 endorsed on the license. All licenses shall expire at
2 midnight of June thirtieth of each year."

3 SECTION 2. THERE IS A NEW R.C.M. SECTION THAT READS AS
4 FOLLOWS:

5 Nonapplicability to existing license. This act does not
6 affect any license transferred prior to July 1, 1977. A
7 license transferred pursuant to the portion of 4-4-206
8 deleted by this act has the same status as a license of
9 original issue in excess of quota on March 7, 1947.

-End-

1 HOUSE BILL NO. 337

2 INTRODUCED BY CONROY, DASSINGER, COLBJRN

3
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1 representative of the department or to any peace officer of
2 the state of Montana.

3 (2) Any license issued under the provisions of this
4 code shall be considered a privilege personal to the
5 licensee named in the license and shall be good until the
6 expiration of the license, unless sooner revoked or
7 suspended. A license may be transferred to the executor or
8 administrator of the estate of any deceased licensee when
9 such estate consists in whole or in part of the business of
10 selling liquor under a license and in such event the license
11 may descend or be disposed of with the business to which it
12 is applicable under appropriate probate proceedings.

13 (3) In the event of a major loss or damage to licensed
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18 removal of license to premises as substantially suited for
19 the retail liquor business as the premises vacated, the
20 licensee may apply to the department for a transfer of the
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7 license transferred pursuant to the portion of 4-4-206
8 deleted by this act has the same status as a license of
9 original issue in excess of quota on March 7, 1947.

-End-