45th Legislature LC 0619/01

1 H BILL NO. 337
2 INTRODUCED BY Conray Easinger Collumn

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

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

Section 1. Section 4-4-206, R.C.M. 1947, is amended to read as follows:

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

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

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

premises by unforeseen natural causes, or in case of expiration of lease of the licensed premises, or in the event of eviction or increase of rent by the landlord, in case of rented, licensed premises, or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to a different premises, the department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The department shall in no event, nor for any cause, permit a

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

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

(a)--x--license--may--be-transferred-to-a-new-ownership
and-to-a-location-outside-the-quota-area-for--which--it--was
originally--issued-only-when-the-following-criteria-are-mett
(i)--the-total-number-of-all-beverages-licenses-in--the
original--quota--area-exceeded-the-quota-for-that-area-by-at

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

#25%)-in-the-most-recent-censust-and

{iii}-the--department--findsy--after--a-public-hearingy
that-the-public convenience-and-necessity-would-be-served-by
such-a-transfer*

(b)-A-license-transferred-between-quota-areas-under this--section-may-not-be-mortgaged-or-pledged-as-securityv and-may-not-be-transferred-to-another-persony-except-for-e transfer-by--inheritance--upon-the-death-of-the-licenseev-A license-transferred-between-quota-areas-under--this--section may--be--held--only--by-natural-personsw--for-the-purpose-of this-sectiony-natural--persons--shall--not--include--limited partnerships-or-other-business-entities-of-any-kind-in-which each--natural--person--is--not--a--full--participant--in-the ownership-and-operation-of-the-ousiness--authorized--by--the licenses

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

least-twenty-five-percent-(25%)-in-the-most--recent--census;

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

-End-

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Approved by Committee on Business and Industry

ì	HOJSE BILL NO. 337
2	INTRODUCED BY CONROY: DASSINGER: COLBURN
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
5	FLOATING TAVERN LICENSE; AMENDING SECTION 4-4-205, R.C.M.
5	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
13	read as follows:
11	#4-4-236. Contents of license posting privilege
15	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
15	address exists, of the premises where the business is to be
17	carried on under said license, and such other information as
13	the department shall deem necessary. If the licensee 🎠 a
19	partnership or if more than one person has any interest in
23	the business operated under the license, the names of all
15	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
35	and a supplication was request to law 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 code shall be considered a privilege personal to the licensee named in the license and shall be good until tha 5 expiration of the license, unless sooner revoked or 5 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.
 - premises by unforeseen natural causes, or in case of expiration of lease of the licensed premises, or in the event of eviction or increase of rent by the landlord, in case of rented, licensed premises, or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to a different premises, the department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The department shall in no event, nor for any cause, permit a

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

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

(a)--A--license--may--be-transferred-to-a-nex-ownership and-to-a-location-outside-the-quota-area-for--which--it--was originally--issued-only-when-the-following-criteria-are-mett (i)--tne-total-number-of-all-beverages-licenses-in--the

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(b)--A-license-transferrad-between-quots--areas--under this--section--way--not-be-wortgaged-or-pledged-as-securityv and-way-not-be--transferred-to-another-personv-except-for--a transfer--by--inharitance--upon-the-death-of-the-licenseev-A license-transferred-between-quota-areas-under--this--section way--be--held--anly--by-natural-personsv--For-the-purpose-of this-sectionv-natural--persons--shall--not--include--liwited partnerships-or-other-business-entities-of-sny-kind-in-which each--natural--person--is--not--a--full--participant--in-the ownership-and-operation-of-the-business--suthorized--by--the licenses

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

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ı	endorsed on the license. All licenses shall expire a
2	midnight of June thirtieth of each year."
3	SECTION_2. THERE IS A NEW R.C.M. SECTION THAT READS A
4	EDŁLOM2:
5	Nonapplicability to existing license. This act does not
5	affect any license transferred prior to July 1, 1977.
7	license transferred pursuant to the portion of 4-4-200
в	deleted by this act has the same status as a license of
9	original issue in excess of quota on March 7, 1947.

-End-

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HOUSE BILL NO. 337 1 INTRODUCED BY CONROY. DASSINGER. COLBURN. 2 3 A BILL FOR AN ACT ENTITLED: MAN ACT TO ELIMINATE THE FLOATING TAVERN LICENSE: AMENDING SECTION 4-4-206. R.C.M. 5 1947.4 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: R Section 1. Section 4-4-206, R.C.M. 1947, is amended to 9 read as follows: 10 "4-4-206. Contents of license -- posting -- privilege 11 12 13

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representative of the department or to any peace officer of

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

13 (3) In the event of a major loss or damage to licensed 14 premises by unforeseen natural causes, or in case of expiration of lease of the licensed premises, or in the 15 event of eviction or increase of rent by the landlord, in 17 case of ranted, 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 tha 21 license to a different premises, the department may in its discretion permit a transfer in such cases if it appears to 22 23 the department that such a transfer is required to do justice to the licensee applying for the transfer. The 24 25 department shall in no event, nor for any cause, permit a

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

SECTION 2. THERE IS A NEW R.C.M. SECTION THAT READS AS EDUCAS:

Nonapplicability to existing license. This act does not

Nonapplicability to existing license. This act does not affect any license transferred prior to July 1, 1977. A license transferred pursuant to the portion of 4-4-205 deleted by this act has the same status as a license of original issue in excess of quota on March 7, 1947.

-End-

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