

1 INTRODUCTION BY ^H Barrett Long BILL NO. 564

2 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE STATE
3 RETAIL LIQUOR STORES; MAINTAINING THE STATE LIQUOR MONOPOLY
4 AT THE WHOLESALE LEVEL; REVISING THE TAXATION OF LIQUOR
5 SALES; LICENSING PACKAGE STORES TO SELL LIQUOR FOR
6 OFF-PREMISES CONSUMPTION ONLY; PROVIDING FOR A TRANSITION
7 SCHEDULE AND AN EFFECTIVE DATE; AMENDING SECTIONS 4-1-103,
8 4-1-107, 4-1-302, 4-1-303, 4-1-401, 4-2-101, AND 4-2-204,
9 R.C.M. 1947; REPEALING SECTIONS 4-1-402, 4-1-403, 4-2-106,
10 4-2-201, 4-2-202, 4-2-203, AND 4-3-307, R.C.M. 1947."

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

12 Section 1. Section 4-1-103, R.C.M. 1947, is amended to
13 read as follows:

14 "4-1-103. Declaration of policy as to retail sale of
15 liquor. It is hereby declared as the policy of the state
16 that it is necessary to further regulate and control the
17 sale and distribution within the state of alcoholic
18 beverages and ~~that~~ to eliminate certain illegal traffic in
19 liquor now existing and to ensure the entire control of the
20 sale of liquor in the Montana department of revenue, it is
21 advisable and necessary ~~in addition to the operation of the~~
22 ~~state liquor stores now provided by law~~ that the said

1 department ~~be empowered and authorized to~~ grant licenses to
2 persons qualified under this code to sell liquor purchased
3 by them at state ~~liquor stores~~ warehouses at ~~retail~~ posted
4 price free competitive prices through taverns and package
5 stores in accordance with this code and under rules and
6 regulations promulgated by the said department, and under
7 its strict supervision and control, ~~and it is state policy~~
8 to provide a severe penalty for the sale of liquor except by
9 ~~and in state liquor stores and that purchased from a state~~
10 warehouse by persons licensed under this code. The
11 restrictions, regulations, and provisions contained in this
12 code are enacted by the legislature for the protection,
13 health, welfare, and safety of the people of the state."

14 Section 2. Section 4-1-107, R.C.M. 1947, is amended to
15 read as follows:

16 "4-1-107. Definitions. As used in this code, the
17 following definitions apply:

18 (1) ~~"Agency agreement" means an agreement between the~~
19 ~~department and a person appointed to sell liquor as a~~
20 ~~commission merchant rather than as an employee.~~

21 (2)(1) "Alcohol" means ethyl alcohol, also called
22 ethanol or the hydrated oxide of ethyl.

23 (3)(2) "Alcoholic beverage" means a compound produced
24 and sold for human consumption as a drink that contains more
25 than ~~one-half of one percent (0.5%)~~ 1/2 of 1% of alcohol by

1 volume.

2 {4}{3} "Beer" means a malt beverage containing not
3 more than seven-percent-{7%} of alcohol by weight.

4 {5}{4} "Brewer" means a person who produces malt
5 beverages.

6 {6}{5} "Department" means the Montana department of
7 revenue.

8 {7}{6} "Immediate family" means a spouse, dependent
9 children, or dependent parents.

10 {8}{7} "Industrial use" means a use described as
11 industrial use by the Federal Alcohol Administration Act and
12 the federal rules and regulations of 27 CFR.

13 {9}{8} "Liquor" means an alcoholic beverage except
14 beer.

15 {10}{9} "Malt beverage" means an alcoholic beverage
16 made by the fermentation of an infusion or decoction, or a
17 combination of both, in potable brewing water, of malted
18 barley with or without hops or their parts, or their
19 products, and with or without other malted cereals and with
20 or without the addition of unmalted or prepared cereals,
21 other carbohydrates, or products prepared therefrom, and
22 with or without other wholesome products suitable for human
23 food consumption.

24 {11}{10} "Package" means a container or receptacle used
25 for holding an alcoholic beverage.

1 {12}{11} "Proof gallon" means a U.S. gallon of liquor
2 at sixty ~~50~~ degrees on the Fahrenheit scale that contains
3 fifty-percent-{50%} of alcohol by volume.

4 {13}{12} "Public place" means a place, building, or
5 conveyance to which the public has or may be permitted to
6 have access and any place of public resort.

7 {14}{13} "Residence" means a building, part of a
8 building, or tent where a person resides, but does not
9 include any part of a building that is not actually and
10 exclusively used as a private residence.

11 {15}{14} "Rules ~~and~~ regulations" means rules ~~and~~
12 regulations published by the department pursuant to this
13 act.

14 {16}{15} "State liquor facility", "state liquor store",
15 or "statestore" means a facility owned or under control of
16 the department for the purpose of receiving, storing,
17 transporting, or selling alcoholic beverages.

18 {17}~~"State-liquor-store" means a retail store operated~~
19 ~~by the department in accordance with this code for the~~
20 ~~purpose of selling distilled spirits and wines.~~

21 {18}{16} "Storage depot" means a building or structure
22 owned or operated by a brewer at any point in the state of
23 Montana, off and away from the premises of a brewery, and
24 which structure is equipped with refrigeration or cooling
25 apparatus for the storage of beer, and from which a brewer

1 may sell or distribute beer as permitted by this code.

2 ~~{19}~~{17} "Warehouse" means a building or structure
 3 owned or operated by a licensed wholesaler for the
 4 receiving, storage and distribution of beer as permitted by
 5 this code.

6 ~~{20}~~{18} "Wine" means an alcoholic beverage made from
 7 the normal alcoholic fermentation of the juice of sound,
 8 ripe, fruit or other agricultural products without addition
 9 or abstraction, except as may occur in the usual cellar
 10 treatment of clarifying and aging and that contains not less
 11 than ~~seven-percent-{7%}-nor~~ or more than ~~twenty-four-percent~~
 12 ~~{24%}~~ of alcohol by volume. Wine may be ameliorated to
 13 correct natural deficiencies, and sweetened and fortified in
 14 accordance with applicable federal regulations and the
 15 customs and practices of the industry. Other alcoholic
 16 beverages not defined as above but made in the manner of
 17 wine, and labeled and sold as wine in accordance with
 18 federal regulations are also wine."

19 Section 3. Section 4-1-302, R.C.M. 1947, is amended to
 20 read as follows:

21 "4-1-302. Functions, powers, and duties of department
 22 of revenue. The department of revenue shall have the
 23 following functions, duties, and powers:

24 ~~{7}~~{11} To to buy, import, and have in its possession
 25 for sale, and sell, at wholesale liquors, in the manner set

1 forth in this code;

2 ~~{8}~~{12} To to control the possession, sale, and
 3 delivery of liquors in accordance with the provisions of
 4 this code;

5 ~~{9}~~{13} To to determine the municipalities within which
 6 state liquor stores, facilities shall be established
 7 throughout the state, and the situation of the stores within
 8 every such municipality;

9 ~~{10}~~{14} To to lease, furnish, and equip any building or
 10 land required for the operation of this code;

11 ~~{11}~~{15} To to buy or lease all plant and equipment it
 12 may consider necessary and useful in carrying into effect
 13 the objects and purposes of this code;

14 ~~{12}~~{16} To to employ store managers, and also every
 15 officer, investigator, clerk, or other employee, required
 16 for the operation or carrying out of this code, and to
 17 dismiss the same, fix their salaries or remuneration, assign
 18 them their title, and define their respective duties and
 19 powers; and

20 {17} to engage the service of experts and persons
 21 engaged in the practice of a profession, if ~~deemed~~
 22 considered expedient;

23 ~~{13}~~{18} To to determine the nature, form, and capacity
 24 of all packages to be used for containing liquor kept or
 25 sold under this code;

1 ~~(h)(9)~~ To grant and issue licenses under and in
2 pursuance to this code; and

3 ~~(i)(10)~~ Without ~~without~~ in any way limiting, or being
4 limited by the foregoing, to do all such things as are
5 deemed ~~considered~~ necessary or advisable by the department
6 for the purpose of carrying into effect the provisions of
7 this code or the ~~regulations~~ rules made thereunder.*

8 Section 4. Section 4-1-303, R.C.M. 1947, is amended to
9 read as follows:

10 *4-1-303. ~~Regulations~~ Rules may be made by department
11 of revenue -- scope of ~~regulations~~ rules. (1) The department
12 of revenue may make such ~~regulations~~ rules, not inconsistent
13 with this code, as to the department of revenue seem
14 necessary, for carrying out the provisions of this code and
15 for the efficient administration thereof.

16 (2) Without thereby limiting the generality of the
17 provisions contained in subsection (1), ~~hereof--it--is~~
18 ~~declared~~ the power of the department to make ~~regulations~~
19 rules in the manner set out in that subsection ~~shall--extend~~
20 ~~to--and--include~~ includes the following:

21 (a) Regulating the equipment and management of state
22 stores and warehouses in which liquor is kept or sold and
23 prescribing the books and records to be kept therein;

24 (b) Prescribing the duties of the employees of the
25 liquor division, and regulating their conduct while in the

1 discharge of their duties;

2 ~~(c)--Governing--the--purchase--of--liquor--and--the~~
3 ~~furnishing-of-liquor-to-state-stores-established-under--this~~
4 ~~code;~~

5 ~~(d)--Determining--the--classes--varieties--and--brands--of~~
6 ~~liquor--to--be--kept--for--sale--at--any--state--store;~~

7 ~~(e)--Prescribing--subject--to--this--code--the--hours~~
8 ~~during--which--state--liquor--stores--shall--be--kept--open--for--the~~
9 ~~sale--of--alcoholic--beverages;~~

10 ~~(f)(c)~~ Providing for the issuing and distributing of
11 price lists showing the price to be paid by purchasers for
12 each class, variety, or brand of liquor kept for sale under
13 this code;

14 ~~(g)(d)~~ Prescribing an official seal which shall be
15 attached to every package of liquor sold or sealed under
16 this code;

17 ~~(h)(e)~~ Prescribing forms to be used for the purpose of
18 this code or of the ~~regulations~~ rules made thereunder, and
19 the terms and conditions in permits and licenses issued and
20 granted under this code;

21 ~~(i)(f)~~ Prescribing the form of records of purchase of
22 liquor, and the reports to be made thereon to the ~~board,~~
23 department and providing for inspection of the records so
24 kept;

25 ~~(j)(g)~~ Prescribing the manner of giving and serving

1 notices required by this code or the regulations rules
2 thereunder;

3 ~~{*}(h)~~ Prescribing the fees payable ~~in respect of~~ for
4 permits and licenses issued under this code for which no
5 fees are prescribed in this code, and prescribing the fees
6 for anything done or permitted to be done under the
7 regulations rules made thereunder;

8 ~~{*}(i)~~ Prescribing, subject to the provisions of this
9 code, the conditions and qualifications necessary for the
10 obtaining of a liquor or beer license, and the books and
11 records to be kept and the returns to be made by the
12 licensees and providing for the inspection of such licensed
13 premises;

14 ~~{*}(j)~~ Specifying and describing the place and the
15 manner in which liquor or beer may be lawfully kept or
16 stored;

17 ~~{*}(k)~~ Specifying and regulating the time and periods
18 when, and the manner, methods, and means by which, vendors
19 and brewers shall deliver liquor under this code, and the
20 time and periods when, and the manner, methods, and means by
21 which liquor, under this code, may be lawfully conveyed or
22 carried;

23 ~~{*}(l)~~ Governing the conduct, management, and
24 equipment of any premises licensed to sell liquor or beer
25 under this code;

1 ~~{*}(m)~~ Providing for the imposition and collection of
2 taxes and making regulations rules respecting returns,
3 accounting, and payment to the department of ~~revenue~~ of the
4 taxes.

5 (3) Whenever it is provided in this code that any act,
6 matter, or thing, may be done, if permitted or authorized by
7 the regulations rules or may be done in accordance with the
8 regulations rules or as provided by the regulations rules,
9 the department of ~~revenue~~, subject to the restrictions set
10 out in subsection (1), hereof, ~~shall have the power to~~ may
11 make regulations rules respecting such act, matter, or
12 thing."

13 Section 5. Section 4-1-401, R.C.M. 1947, is amended to
14 read as follows:

15 "4-1-401. License tax on liquor -- amount --
16 distribution of proceeds. ~~(1) The department of revenue is~~
17 ~~hereby authorized and directed to charge, receive and shall~~
18 collect at the time of sale and delivery of any liquor under
19 any provisions of the Montana laws of the state of Montana a
20 license tax of ~~five percent (5%) of the retail selling price~~
21 ~~on all liquor so sold and delivered~~ 40% of the department's
22 purchase price for liquor delivered to it in Montana, plus
23 40% of its handling costs and freight to the retailer. Said
24 This tax shall be charged and collected on all liquor
25 brought into the state and taxed by the department of

1 revenue. ~~The retail selling price shall be computed by~~
 2 ~~adding to the cost of said liquor the state markup as~~
 3 ~~designated by the department. Said five percent (5%)~~
 4 ~~license tax shall be figured in the same manner as the state~~
 5 ~~excise tax and shall be in addition to said state excise~~
 6 ~~tax. The department of revenue shall retain the amount of~~
 7 ~~such five percent (5%) license tax so received in a separate~~
 8 ~~account. Four-fifths (4/5) One-fifth of these revenues~~
 9 shall be distributed to the counties according to the amount
 10 of liquor purchased in each county. ~~One-fifth (1/5) The~~
 11 ~~balance of these revenues shall be deposited in the general~~
 12 ~~fund. Provided, however, in the case of purchases of liquor~~
 13 ~~by a retail liquor licensee for use in his business, the~~
 14 ~~department shall make such regulations as are necessary to~~
 15 ~~apportion that proportion of license tax so generated to the~~
 16 ~~county where the licensed establishment is located, for use~~
 17 ~~as provided in section 4-1-402, R.C.M., 1947. The department~~
 18 of revenue shall pay quarterly to each county treasurer the
 19 proportion of the license tax due each county.

20 (2) The county treasurer of each county shall retain
 21 one-fourth (1/4) of said ~~the~~ license tax, and shall, within
 22 ~~thirty (30)~~ days after receipt thereof, apportion the
 23 remaining three-fourths (3/4) thereof to the treasurers of
 24 the incorporated cities and towns within his county, said
 25 ~~the~~ apportionment to be based in each instance upon the

1 proportion which the gross sale of liquor in such
 2 incorporated city or town bears to the gross sale of liquor
 3 in all of the incorporated cities and towns in his said
 4 county."

5 Section 6. Section 4-2-101, R.C.M. 1947, is amended to
 6 read as follows:

7 "4-2-101. Establishment of state liquor wholesale
 8 stores -- hours -- kinds and prices of liquor. The
 9 department of revenue shall establish and maintain one or
 10 more stores wholesale facilities, to be known as "state
 11 liquor stores", as the department finds feasible for the
 12 sale of liquor in accordance with the provisions of this
 13 code and the ~~regulations~~ rules made thereunder, the ~~stores~~
 14 shall be classified according to the volume of business
 15 which each store does each fiscal year, the volume of
 16 business to be used in figuring each store's classification
 17 shall be the volume of business done by the store to be
 18 classified during the immediate past fiscal year, stores
 19 shall be classified as follows: stores having done a
 20 business of four hundred and fifty thousand dollars
 21 (\$450,000) or over during the immediate past fiscal year
 22 shall be "Class A" stores; stores having done a business of
 23 one hundred and forty thousand dollars (\$140,000) and up to
 24 four hundred and fifty thousand dollars (\$450,000) during
 25 the immediate past fiscal year shall be "Class B" stores;

~~and all stores having done a business of less than one
 hundred and forty thousand dollars (\$140,000) during the
 immediate post fiscal year shall be "Class C" stores; in
 opening new stores the department shall estimate the volume
 of business which said store will do the first year and
 classify said store according to the estimate of business;
 the department shall enter into an agency agreement or
 employ the necessary help to operate said stores and shall
 designate the duties to be performed by the agent or
 employees; the department may from time to time fix the
 prices at which the various classes, varieties and brands of
 liquor may be sold; and prices shall be the same at all
 state stores. Such the state liquor stores shall be and
 remain open during such period of the day as the department
 shall deem considers advisable; ~~provided; however; that such~~
~~stores shall be closed for the transaction of business~~
~~between the close of normal business Saturday pm up to the~~
~~opening of normal business Tuesday am as set by~~
~~department regulation and including legal holidays."~~~~

Section 7. 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 hereby authorized to~~ shall sell 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 which said liquor is
 sold its cost plus handling charges, freight to the
 licensee, and the license tax. All sales shall be upon a
 cash basis. The posted price as used herein shall mean the
 retail price of such liquor as fixed and determined by the
 department of revenue and in addition thereto an excise tax
 as in this act provided. Laverns and package stores may sell
 liquor so purchased at such retail prices as they consider
 appropriate. No other person may purchase liquor from a
 state facility."~~

Section 8. There is a new R.C.M. section in Title 4, chapter 4, that reads as follows:

Package store license -- issuance -- limitations. (1) A person may sell at retail original and unopened packages of liquor not to be consumed on the premises where sold if he holds a valid package store license from the department.

(2) The department shall issue a package store license to any applicant who demonstrates that he is qualified under 4-4-108 and, after notice under 4-4-302, that the public convenience and necessity would be served by the operation of the package store. However, the total number of package store licenses may not exceed one per 5,000 inhabitants or fraction thereof in a county, as indicated by the most recent federal census.

(3) A package store license is a privilege personal to

1 the licensee. It may not be transferred to another by sale,
2 lease, foreclosure, inheritance, or any other means. Each
3 license must bear the name of a natural person who shall be
4 in direct on-premises charge of the store, and every
5 replacement of this natural person shall be reported to and
6 approved by the department.

7 (4) A person holding a license for the off-premises
8 sale of beer under 4-4-201(4) may be issued a package store
9 license only if the premises used for the package store are
10 physically segregated from the remaining premises to a
11 degree sufficient to assure compliance with the sales
12 restrictions in the Montana Alcoholic Beverages Code.

13 Section 9. There is a new R.C.M. section in Title 4,
14 chapter 4, that reads as follows:

15 Package store license -- fee. (1) The fees for a
16 package store license to be remitted to the department are
17 \$1,000 for the initial application, payable upon issuance of
18 the license, and \$400 for each renewal, payable on or before
19 June 30 for the following 12 months.

20 (2) The initial application fee shall be paid into the
21 general fund and renewal fees shall be paid to the city or
22 town in which the package store is located or to the county
23 in which a package store outside a city or town is located.

24 Section 10. Placement of liquor division employees.
25 (1) The department shall give first priority to employees of

1 its liquor division in hiring personnel for such regional
2 facilities as may be established to wholesale liquor.

3 (2) The department of administration shall develop
4 retraining and placement programs for employees of the
5 liquor division whose positions are eliminated by this act
6 and who wish to continue their employment with the state.

7 Section 11. Leases. The department shall endeavor to
8 sublet those properties leased for use as retail liquor
9 stores whenever such lease is not voided by the enactment of
10 this act.

11 Section 12. Repealer. Sections 4-1-402, 4-1-403,
12 4-2-106, 4-2-201, 4-2-202, 4-2-203, and 4-3-307, R.C.M.
13 1947, are repealed.

14 Section 13. Effective date. This act is effective
15 January 1, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 577-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 17, 19 77, there is hereby submitted a Fiscal Note for House Bill 564 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to eliminate state retail liquor stores; maintaining the state liquor monopoly at the wholesale level; revising the taxation of liquor sales; licensing package stores to sell liquor for off-premises consumption only; and providing for a transition schedule and an effective date.

ASSUMPTIONS:

1. Assume that 170 package store licenses are issued under the proposed law (170 initial applications in FY78, and 160 renewals with 10 initial applications in FY79).
2. Assume that 6 state liquor warehouses are established outside of Helena, with average annual total operating expenses of \$175,000 each.
3. Assume that the identical quantity of alcoholic beverages will be sold under either the proposed law or the present law.
4. Assume that the total freight cost of transporting liquor from the Helena warehouse to the regional warehouse and then on to the retailers will be 1¼ times as large, under the proposed law, as the freight cost for transporting liquor from the Helena warehouse to state liquor stores under present law.
5. Assume that the state will be able to terminate its store leases or sublet the stores on midnight, Dec. 31, 1977, without cost to the state.
6. Assume that administrative and warehouse operations will not be adversely affected by the proposed law (i.e., there will be no additional administrative or operational costs in Helena under the new distribution system and new package store license).
7. In FY78, the first 6 mos. of merchandising receipts and expenditures will be determined according to present laws assumptions, and the second 6 mos. will be determined according to assumptions 2-6 (i.e., half of each).
8. "Handling costs" equals total operational expenses less freight charges.
9. Retraining and placement programs per Section 10 will have minimal fiscal impact.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Net revenue for merchandising and beer - current law	\$17.959M	\$18.460M
Package store license receipts - current law	<u>0</u>	<u>0</u>
Total revenue - current law	<u>17.959M</u>	<u>18.460M</u>
Net revenue for merchandising and beer - proposed law	16.457M	15.942M
Package store license receipts - proposed law	<u>.170M</u>	<u>.074M</u>
Total revenue - proposed law	<u>16.627M</u>	<u>16.016M</u>
Decrease in revenue due to proposed law	1.332M	2.444M
Increased expenditures under proposed law (local distribution)	<u>.411M</u>	<u>.936M</u>
Net reduction in available funds due to proposed legislation	<u>\$ 1.743M</u>	<u>\$ 3.380M</u>

FY79 will be the first fiscal year fully under the provisions of the proposed law, and in that year the state General Fund will receive \$3.380 million less receipts from liquor sales than would be the case without the proposed change. This amounts to a 25% decline in receipts to the General Fund attributable to liquor operations.

(continued on page 2)

CONTINUED

FISCAL NOTE

Form BD 15

In compliance with a written request received February 2, 19 77, there is hereby submitted a Fiscal Note for House Bill 564 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

LOCAL IMPACT: Allocation of liquor and beer revenues to local jurisdictions:	FY78		FY79	
	Present Law	Proposed Law	Present Law	Proposed Law
Liquor License Tax	\$1,623,545	\$2,034,396	\$1,703,655	\$2,595,372
Beer Tax	1,259,092	1,259,092	1,368,626	1,368,626
Package Store License Renewals	0	0	0	44,000
TOTAL	\$2,882,637	\$3,293,487	\$3,072,281	\$4,007,998

TECHNICAL NOTE:

1. The wording of page 15, section 9, subsection (1) allows package store licenses to commence and expire on days which are different from the current practice of having all licenses expire at midnight of June 30th of each year.
2. Assumption 5 is unjustifiable.
3. Assumption 6 is probably untenable.

Richard L. Zhang for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-23-77

Approved by Committee
on Business and Industry

1 INTRODUCED BY H. Barrett Loy BILL NO. 564

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21 advisable and necessary, ~~in addition to the operation of the~~
22 ~~state liquor stores now provided by law~~ that the said

1 department be empowered and authorized to grant licenses to
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3 by them at state liquor stores ~~warehouses~~ at retail posted
4 price ~~free competitive prices through taverns and package~~
5 ~~stores~~ in accordance with this code and under rules and
6 regulations promulgated by the said department, and under
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22 ethanol or the hydrated oxide of ethyl.

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24 and sold for human consumption as a drink that contains more
25 than one-half of one percent (0.5%) ~~1/2 of 1%~~ of alcohol by

There are no changes in HB 564, & will not be re-run.
Please refer to white copy for complete SECOND READING

HB 564

1 volume.

2 ~~(4)~~(3) "Beer" means a malt beverage containing not
3 more than ~~seven-percent~~(7%) of alcohol by weight.

4 ~~(5)~~(4) "Brewer" means a person who produces malt
5 beverages.

6 ~~(6)~~(5) "Department" means the Montana department of
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14 beer.

15 ~~(10)~~(9) "Malt beverage" means an alcoholic beverage
16 made by the fermentation of an infusion or decoction, or a
17 combination of both in potable brewing water, of malted
18 barley with or without hops or their parts, or their
19 products, and with or without other malted cereals and with
20 or without the addition of unmalted or prepared cereals,
21 other carbohydrates, or products prepared therefrom, and
22 with or without other wholesome products suitable for human
23 food consumption.

24 ~~(11)~~(10) "Package" means a container or receptacle used
25 for holding an alcoholic beverage.

1 ~~(12)~~(11) "Proof gallon" means a U.S. gallon of liquor
2 at ~~sixty~~ 50 degrees on the Fahrenheit scale that contains
3 ~~fifty-percent~~(50%) of alcohol by volume.

4 ~~(13)~~(12) "Public place" means a place, building, or
5 conveyance to which the public has or may be permitted to
6 have access and any place of public resort.

7 ~~(14)~~(13) "Residence" means a building, part of a
8 building, or tent where a person resides, but does not
9 include any part of a building that is not actually and
10 exclusively used as a private residence.

11 ~~(15)~~(14) "Rules and ~~regulations~~" means rules and
12 ~~regulations~~ published by the department pursuant to this
13 act.

14 ~~(16)~~(15) "State liquor facility", "state liquor store",
15 or "statestore" means a facility owned or under control of
16 the department for the purpose of receiving, storing,
17 transporting, or selling alcoholic beverages.

18 ~~(17)~~ "~~State liquor store~~" ~~means a retail store operated~~
19 ~~by the department in accordance with this code for the~~
20 ~~purpose of selling distilled spirits and wines.~~

21 ~~(18)~~(16) "Storage depot" means a building or structure
22 owned or operated by a brewer at any point in the state of
23 Montana, off and away from the premises of a brewery, and
24 which structure is equipped with refrigeration or cooling
25 apparatus for the storage of beer, and from which a brewer