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WILLIAMS House BILL NO. 627
 INTRODUCED BY N. Barth, F. George, R. Roth, Sheldon Muller, Miller
 Palmer, Elio Nesom, J. Koy, Walden, Haysler
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 SALVEMAN BOY
 PROVISIONS OF THE UNIFORM ALCOHOLISM INTOXICATION ACT,
 ESTABLISHING A DIVISION OF ALCOHOL AND DRUG DEPENDENCY;
 INCREASING THE TAX ON ALCOHOLIC BEVERAGES TO CREATE FUNDING
 FOR AUTHORIZED PROGRAMS; AMENDING SECTIONS 4-1-401, 80-2702,
 80-2703, 80-2709 THROUGH 80-2720, AND 80-2722, R.C.M. 1947.
 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. Section 80-2702, R.C.M. 1947, is amended to
 read as follows:
 "80-2702. Duties of department -- department
 authorized to accept gifts -- enter into contracts --
 acquire and dispose of property. (1) The department of
 institutions, hereafter referred to as department in this
 chapter, shall:
 (a) Plan, promote, and assist in the support of
 alcohol and drug dependence prevention, treatment, and
 control programs;
 (b) Conduct, sponsor, and support research,
 investigations, and studies, including evaluation, of all
 phases of alcohol and drug dependence;
 (c) Assist the development of educational and

1 programs relative to alcohol and drug dependence, and carry
 2 on programs to assist the public, and technical and
 3 professional groups, in becoming fully informed about
 4 alcohol and drug dependence;
 5 (d) Promote, develop, and assist, financially and
 6 otherwise, alcohol and drug dependence programs administered
 7 by other state agencies, local government agencies, and
 8 private nonprofit organizations and agencies;
 9 (e) Encourage and promote effective use of facilities,
 10 resources, and funds in the planning and conduct of programs
 11 and activities for prevention, treatment, and control of
 12 alcohol and drug dependence and, in this respect, cooperate
 13 with and utilize to the maximum possible extent the
 14 resources and services of federal, state, and local
 15 agencies.
 16 (f) Establish a division of alcohol and drug
 17 dependence.
 18 (2) To carry out this act, the department may:
 19 (a) Accept gifts, grants, and donations of money and
 20 property from public and private sources;
 21 (b) Enter into contracts;
 22 (c) Acquire and dispose of property."
 23 Section 2. Section 80-2703, R.C.M. 1947, is amended to
 24 read as follows:
 25 "80-2703. Administration of federal program. The

INTRODUCED BILL

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1 ~~department-of-institutions division of alcohol and drug~~
 2 ~~dependence~~ is hereby designated the single state agency for
 3 the administration of federal programs under:

4 (1) the Drug Abuse Office and Treatment Act of 1972,
 5 Public Law 92-255 as amended, 21 U.S.C. section 1176; and

6 (2) the Comprehensive Alcohol Abuse and Alcoholism
 7 Prevention, Treatment and Rehabilitation Act of 1970, Public
 8 Law 91-616 as amended, 42 U.S.C. section 4573."

9 Section 3. Section 80-2709, R.C.M. 1947, is amended to
 10 read as follows:

11 "80-2709. Definitions. For purposes of this act
 12 chapter:

13 (1) "alcoholic" means a person who habitually lacks
 14 self-control as to the use of alcoholic beverages, or uses
 15 alcoholic beverages to the extent that his health is
 16 substantially impaired or endangered or his social or
 17 economic function is substantially disrupted;

18 (2) "approved private treatment facility" means a
 19 private agency meeting the standards prescribed in section
 20 ~~69-6216 80-2713(1)~~ and approved under section ~~69-6216~~
 21 ~~80-2713~~;

22 (3) "approved public treatment facility" means a
 23 treatment agency operating under the direction and control
 24 of the department or providing treatment under this act
 25 through a contract with the department and approved under

1 section ~~69-6216 80-2713~~;

2 (4) "department" means the department of institutions
 3 provided for in section 82A-801, R.C.M. 1947;

4 ~~(5) "division" means the division of alcohol and drug~~
 5 ~~dependence~~;

6 ~~(5)(6)~~ "incapacitated by alcohol" means that a person,
 7 as a result of the use of alcohol, is unconscious or has his
 8 judgment otherwise so impaired that he is incapable of
 9 realizing and making a rational decision with respect to his
 10 need for treatment;

11 ~~(6)(7)~~ "incompetent person" means a person who has
 12 been adjudged incompetent by the district court;

13 ~~(7)(8)~~ "intoxicated person" means a person whose
 14 mental or physical functioning is substantially impaired as
 15 a result of the use of alcohol;

16 ~~(8)(9)~~ "treatment" means the broad range of emergency,
 17 outpatient, intermediate, and inpatient services and care,
 18 including diagnostic evaluation, medical, psychiatric,
 19 psychological, and social service care, vocational
 20 rehabilitation and career counseling, which may be extended
 21 to alcoholics, and intoxicated persons, and family members;

22 ~~(10)~~ "family member" is the spouse, mother, father,
 23 child, or member of the household of an alcoholic whose life
 24 has been affected by the actions of the alcoholic and may
 25 require treatment;

1 (1) "prevention" has meaning on four levels; these
2 are:

3 (a) education to provide information to the school
4 children and general public relating to alcohol dependence
5 and alcoholism, treatment, and rehabilitative services and
6 to reduce the consequences of life experiences acquired by
7 contact with an alcoholic;

8 (b) early detection and recovery from the illness
9 before lasting emotional or physical damage, or both, have
10 occurred;

11 (c) if lasting emotional or physical damage, or both,
12 have occurred, to arrest the illness before full disability
13 has been reached;

14 (d) the provision of facility requirements to meet
15 division program standards and improve public accessibility
16 for services."

17 Section 4. Section 80-2710, R.C.M. 1947, is amended to
18 read as follows:

19 "80-2710. Powers of department division. The
20 department division of alcohol and drug dependence may:

21 (1) plan, establish, and maintain treatment programs as
22 necessary or desirable;

23 (2) coordinate its activities and cooperate with
24 alcoholism programs in this and other states, and make
25 contracts and other joint or cooperative arrangements with

1 state, local, or private agencies in this and other states
2 for the treatment of alcoholics and intoxicated persons and
3 for the common advancement of alcoholism programs;

4 (3) do other acts and things necessary or convenient to
5 execute the authority expressly granted to it; and

6 (4) provide treatment facilities for alcoholics, and
7 intoxicated persons, and family members."

8 Section 5. Section 80-2711, R.C.M. 1947, is amended to
9 read as follows:

10 "80-2711. Duties of department division. The
11 department division shall:

12 (1) develop, encourage, and foster statewide, regional,
13 and local plans and programs for the prevention of
14 alcoholism and treatment of alcoholics and intoxicated
15 persons in cooperation with public and private agencies,
16 organizations, and individuals and provide technical
17 assistance and consultation services for these purposes;

18 (2) coordinate the efforts and enlist the assistance of
19 all public and private agencies, organizations, and
20 individuals interested in prevention of alcoholism and
21 treatment of alcoholics and intoxicated persons;

22 (3) cooperate with the ~~department-of-institutions-and~~
23 board of pardons in establishing and conducting programs to
24 provide treatment for alcoholics and intoxicated persons in
25 or on parole from penal institutions;

1 (4) cooperate with the department of education, the
2 superintendent of public instruction, schools, police
3 departments, courts, and other public and private agencies,
4 organizations and individuals in establishing programs for
5 the prevention of alcoholism and treatment of alcoholics and
6 intoxicated persons, and preparing curriculum materials
7 thereon for use at all levels of education;

8 (5) prepare, publish, evaluate, and disseminate
9 educational material dealing with the nature and effects of
10 alcohol;

11 (6) develop and implement, as an integral part of
12 treatment programs, an educational program for use in the
13 treatment of alcoholics and intoxicated persons, which
14 program shall include the dissemination of information
15 concerning the nature and effects of alcohol;

16 (7) organize and foster training programs for all
17 persons engaged in treatment of alcoholics and intoxicated
18 persons;

19 (8) sponsor and encourage research into the causes and
20 nature of alcoholism and treatment of alcoholics and
21 intoxicated persons, and serve as a clearing house for
22 information relating to alcoholism;

23 (9) specify uniform methods for keeping statistical
24 information by public and private agencies, organizations,
25 and individuals, and collect and make available relevant

1 statistical information, including number of persons
2 treated, frequency of admission and readmission, and
3 frequency and duration of treatment;

4 (10) advise the governor in the preparation of a
5 comprehensive plan for treatment of alcoholics and
6 intoxicated persons for inclusion in the state's
7 comprehensive health plan;

8 (11) review all state health, welfare, and treatment
9 plans to be submitted for federal funding under federal
10 legislation, and advise the governor on provisions to be
11 included relating to alcoholism and intoxicated persons;

12 (12) assist in the development of, and cooperate with,
13 alcohol education and treatment programs for employees of
14 state and local governments and businesses and industries in
15 the state;

16 (13) utilize the support and assistance of interested
17 persons in the community, particularly recovered alcoholics,
18 to encourage alcoholics voluntarily to undergo treatment;

19 (14) cooperate with the department of justice in
20 establishing and conducting programs designed to deal with
21 the problem of persons operating motor vehicles while
22 intoxicated;

23 (15) encourage general hospitals and other appropriate
24 health facilities to admit without discrimination alcoholics
25 and intoxicated persons and to provide them with adequate

1 and appropriate treatment;

2 (16) encourage all health and disability insurance
3 programs to include alcoholism as a covered illness; and

4 (17) submit to the governor an annual report covering
5 the activities of the department division."

6 Section 6. Section 80-2712, R.C.M. 1947, is amended to
7 read as follows:

8 "80-2712. Comprehensive program for treatment. (1) The
9 department division shall establish a comprehensive and
10 coordinated program for the treatment of alcoholics, and
11 intoxicated persons, and family members.

12 (2) The program shall include:

13 (a) emergency treatment provided by a facility
14 affiliated with or part of the medical service of a general
15 hospital;

16 (b) inpatient treatment;

17 (c) intermediate treatment; and

18 (d) outpatient and followup treatment.

19 (3) The department division shall provide for adequate
20 and appropriate treatment for alcoholics and intoxicated
21 persons admitted under sections ~~69-6218 to 69-6221~~ 80-2715
22 through 80-2718. Treatment may not be provided at a
23 correctional institution except for inmates.

24 (4) All appropriate public and private resources shall
25 be coordinated with and utilized in the program if possible.

1 (5) The department division shall prepare, publish, and
2 distribute annually a list of all approved public and
3 private treatment facilities."

4 Section 7. Section 80-2713, R.C.M. 1947, is amended to
5 read as follows:

6 "80-2713. Facility standards -- inspections --
7 approvals. (1) The department division shall establish
8 standards for approved treatment facilities that must be met
9 for a treatment facility to be approved as a public or
10 private treatment facility, and fix the fees to be charged
11 for the required inspections. The standards may concern only
12 the health standards to be met and standards of treatment to
13 be afforded patients.

14 (2) The department division periodically shall inspect
15 approved public and private treatment facilities at
16 reasonable times and in a reasonable manner.

17 (3) The department division shall maintain a list of
18 approved public and private treatment facilities.

19 (4) Each approved public and private treatment facility
20 shall file with the department division on request, data,
21 statistics, schedules, and information the department
22 division reasonably requires. An approved public or private
23 treatment facility that without good cause fails to furnish
24 any data, statistics, schedules, or information as
25 requested, or files fraudulent returns thereof, shall be

1 removed from the list of approved treatment facilities.

2 (5) The department division, after holding a hearing in
3 accordance with the Administrative Procedure Act, may
4 suspend, revoke, limit, or restrict an approval, or refuse
5 to grant an approval, for failure to meet its standards.

6 (6) A district court may restrain any violation of this
7 section, review any denial, restriction, or revocation of
8 approval, and grant other relief required to enforce its
9 provisions.

10 (7) Upon petition of the department division and after
11 a hearing held upon reasonable notice to the facility, a
12 district court may issue a warrant to the department
13 division authorizing it to enter and inspect at reasonable
14 times, and examine the books and accounts of, any approved
15 public or private treatment facility refusing to consent to
16 inspection or examination by the department division or
17 which the department division has reasonable cause to
18 believe is operating in violation of this act."

19 Section 8. Section 80-2714, R.C.M. 1947, is amended to
20 read as follows:

21 "80-2714. Acceptance for treatment -- rules. The
22 department division shall adopt rules for acceptance of
23 persons into the treatment program, considering available
24 treatment resources and facilities, for the purpose of early
25 and effective treatment of alcoholics, and intoxicated

1 persons, and family members. In adopting the rules the
2 department division shall be guided by the following
3 standards:

4 (1) If possible, a patient shall be treated on a
5 voluntary rather than an involuntary basis.

6 (2) A patient shall be initially assigned or
7 transferred to outpatient or intermediate treatment, unless
8 he is found to require inpatient treatment.

9 (3) A person shall not be denied treatment solely
10 because he has withdrawn from treatment against medical
11 advice on a prior occasion or because he has relapsed after
12 earlier treatment.

13 (4) An individualized treatment plan shall be prepared
14 and maintained on a current basis for each patient person.

15 (5) Provision shall be made for a continuum of
16 coordinated treatment services, so that a person who leaves
17 a facility or a form of treatment will have available and
18 utilize other appropriate treatment."

19 Section 9. Section 80-2715, R.C.M. 1947, is amended to
20 read as follows:

21 "80-2715. Voluntary treatment of alcoholics. (1) An
22 alcoholic may apply for voluntary treatment directly to an
23 approved public treatment facility. If the proposed patient
24 is a minor or an incompetent person, he, a parent, a legal
25 guardian, or other legal representative may make the

1 application.

2 (2) Subject to rules adopted by the department
3 division, the administrator of an approved public treatment
4 facility may determine who shall be admitted for treatment.
5 If a person is refused admission to an approved public
6 treatment facility, the administrator, subject to
7 ~~departmental~~ division rules, shall refer the person to
8 another approved public treatment facility for treatment if
9 possible and appropriate.

10 (3) If a patient receiving inpatient care leaves an
11 approved public treatment facility, he shall be encouraged
12 to consent to appropriate outpatient or intermediate
13 treatment. If it appears to the administrator of the
14 treatment facility that the patient is an alcoholic who
15 requires help, the ~~department~~ division shall arrange for
16 assistance in obtaining supportive services and residential
17 facilities.

18 (4) If a patient leaves an approved public treatment
19 facility, with or against the advice of the administrator of
20 the facility, the ~~department~~ division shall make reasonable
21 provisions for his transportation to another facility or to
22 his home. If he has no home he shall be assisted in
23 obtaining shelter. If he is a minor or an incompetent person
24 the request for discharge from an inpatient facility shall
25 be made by a parent, legal guardian, or other legal

1 representative or by the minor or incompetent if he was the
2 original applicant."

3 Section 10. Section 80-2716, R.C.M. 1947, is amended
4 to read as follows:

5 "80-2716. Treatment and services for intoxicated
6 persons and persons incapacitated by alcohol. (1) An
7 intoxicated person may come voluntarily to an approved
8 public treatment facility for emergency treatment. A person
9 who appears to be intoxicated in a public place and to be in
10 need of help, if he consents to the proffered help, may be
11 assisted to his home, an approved public treatment facility,
12 an approved private treatment facility, or other health
13 facility by the police.

14 (2) A person who appears to be incapacitated by alcohol
15 shall be taken into protective custody by the police and
16 forthwith brought to an approved public treatment facility
17 for emergency treatment. If no approved public treatment
18 facility is readily available he shall be taken to an
19 emergency medical service customarily used for incapacitated
20 persons. The police, in detaining the person and in taking
21 him to an approved public treatment facility, is taking him
22 into protective custody and shall make every reasonable
23 effort to protect his health and safety. In taking the
24 person into protective custody, the detaining officer may
25 take reasonable steps to protect himself. No entry or other

1 record may be made to indicate that the person taken into
2 custody under this section has been arrested or charged with
3 a crime.

4 (3) A person who comes voluntarily or is brought to an
5 approved public treatment facility shall be examined by a
6 licensed physician as soon as possible. He may then be
7 admitted as a patient or referred to another health
8 facility. The referring approved public treatment facility
9 shall arrange for his transportation.

10 (4) A person who by medical examination is found to be
11 incapacitated by alcohol at the time of his admission or to
12 have become incapacitated at any time after his admission,
13 may not be detained at the facility (1) once he is no longer
14 incapacitated by alcohol, or (2) if he remains incapacitated
15 by alcohol for more than forty-eight (48) hours after
16 admission as a patient, unless he is committed under section
17 ~~69-6220~~ 80-2717. A person may consent to remain in the
18 facility as long as the physician in charge believes
19 appropriate.

20 (5) A person who is not admitted to an approved public
21 treatment facility and is not referred to another health
22 facility, may be taken to his home. If he has no home, the
23 approved public treatment facility shall assist him in
24 obtaining shelter.

25 (6) If a patient is admitted to an approved public

1 treatment facility, his family or next of kin shall be
2 notified as promptly as possible. If an adult patient who is
3 not incapacitated requests that there be no notification,
4 his request shall be respected."

5 Section 11. Section 60-2717, R.C.M. 1947, is amended
6 to read as follows:

7 "80-2717. Emergency commitment. (1) An intoxicated
8 person who (a) has threatened, attempted, or inflicted
9 physical harm on another and is likely to inflict physical
10 harm on another unless committed, or (b) is incapacitated by
11 alcohol, may be committed to an approved public treatment
12 facility for emergency treatment. A refusal to undergo
13 treatment does not constitute evidence of lack of judgment
14 as to the need for treatment.

15 (2) The certifying physician, spouse, guardian, or
16 relative of the person to be committed, or any other
17 responsible person, may make a written application for
18 commitment under this section, directed to the administrator
19 of the approved public treatment facility. The application
20 shall state facts to support the need for emergency
21 treatment and be accompanied by a physician's certificate
22 stating that he has examined the person sought to be
23 committed within two (2) days before the certificate's date
24 and facts supporting the need for emergency treatment. A
25 physician employed by the admitting facility or the

1 department is not eligible to be the certifying physician.

2 (3) Upon approval of the application by the
3 administrator of the approved public treatment facility, the
4 person shall be brought to the facility by a peace officer,
5 health officer, the applicant for commitment, the patient's
6 spouse, the patient's guardian, or any other interested
7 person. The person shall be retained at the facility to
8 which he was admitted, or transferred to another appropriate
9 public or private treatment facility, until discharged under
10 subsection (5).

11 (4) The administrator of an approved public treatment
12 facility shall refuse an application if in his opinion the
13 application and certificate fail to sustain the grounds for
14 commitment.

15 (5) When on the advice of the medical staff the
16 administrator determines that the grounds for commitment no
17 longer exist, he shall discharge a person committed under
18 this section. No person committed under this section may be
19 detained in any treatment facility for more than five (5)
20 days. If a petition for involuntary commitment under section
21 ~~69-6221~~ 80-2718 has been filed within the five (5) days and
22 the administrator in charge of an approved public treatment
23 facility finds that grounds for emergency commitment still
24 exist, he may detain the person until the petition has been
25 heard and determined, but no longer than ten (10) days after

1 filing the petition.

2 (6) A copy of the written application for commitment
3 and of the physician's certificate, and a written
4 explanation of the person's right to counsel, shall be given
5 to the person within twenty-four (24) hours after commitment
6 by the ~~department~~ division, who shall provide a reasonable
7 opportunity for the person to consult counsel."

8 Section 12. Section 80-2718, R.C.M. 1947, is amended
9 to read as follows:

10 "80-2718. Involuntary commitment of alcoholics. (1) A
11 person may be committed to the custody of the ~~department--of~~
12 institutions division by the district court upon the
13 petition of his spouse or guardian, a relative, the
14 certifying physician, or the chief of any approved public
15 treatment facility. The petition shall allege that the
16 person is an alcoholic who habitually lacks self-control as
17 to the use of alcoholic beverages and that he (a) has
18 threatened, attempted, or inflicted physical harm on another
19 and that unless committed is likely to inflict physical harm
20 on another; or (b) is incapacitated by alcohol. A refusal to
21 undergo treatment does not constitute evidence of lack of
22 judgment as to the need for treatment. The petition shall be
23 accompanied by a certificate of a licensed physician who has
24 examined the person within two (2) days before submission of
25 the petition, unless the person whose commitment is sought

1 has refused to submit to a medical examination, in which
 2 case the fact of refusal shall be alleged in the petition.
 3 The certificate shall set forth the physician's findings in
 4 support of the allegations of the petition. A physician
 5 employed by the admitting facility or the department
 6 division is not eligible to be the certifying physician.

7 (2) Upon filing the petition, the court shall fix a
 8 date for a hearing no later than ten (10) days after the
 9 date the petition was filed. A copy of the petition and of
 10 the notice of the hearing, including the date fixed by the
 11 court, shall be served on the petitioner, the person whose
 12 commitment is sought, his next of kin other than the
 13 petitioner, a parent or his legal guardian if he is a minor,
 14 the administrator in charge of the approved public treatment
 15 facility to which he has been committed for emergency care,
 16 and any other person the court believes advisable. A copy of
 17 the petition and certificate shall be delivered to each
 18 person notified.

19 (3) At the hearing the court shall hear all relevant
 20 testimony, including, if possible, the testimony of at least
 21 one licensed physician who has examined the person whose
 22 commitment is sought. The person shall have a right to have
 23 a licensed physician of his own choosing examine him and
 24 testify on his behalf, and if he has no funds with which to
 25 pay such physician, the reasonable costs of one such

1 examination and testimony shall be paid by the county. The
 2 person shall be present unless the court believes that his
 3 presence is likely to be injurious to him; he shall be
 4 advised of his right to counsel and, if he is unable to hire
 5 his own counsel, the court shall appoint an attorney to
 6 represent him at the expense of the county. The court shall
 7 examine the person in open court, or if advisable, shall
 8 examine the person in chambers. If he refuses an examination
 9 by a licensed physician and there is sufficient evidence to
 10 believe that the allegations of the petition are true, or if
 11 the court believes that more medical evidence is necessary,
 12 the court may make a temporary order committing him to the
 13 ~~department of institutions~~ division for a period of not more
 14 than five (5) days for purposes of a diagnostic examination.

15 (4) If after hearing all relevant evidence, including
 16 the results of any diagnostic examination by the department
 17 ~~of institutions~~ division, the court finds that grounds for
 18 involuntary commitment have been established by clear and
 19 convincing evidence, it shall make an order of commitment to
 20 the ~~department of institutions~~ division. It may not order
 21 commitment of a person unless it determines that the
 22 ~~department of institutions~~ division is able to provide
 23 adequate and appropriate treatment for him and the treatment
 24 is likely to be beneficial.

25 (5) A person committed under this section shall remain

1 in the custody of the ~~department-of-institutions~~ division
 2 for treatment for a period of thirty (30) days unless sooner
 3 discharged. At the end of the thirty (30) day period, he
 4 shall be discharged automatically unless the ~~department-of-~~
 5 institutions division before expiration of the period
 6 obtains a court order from the district court of the
 7 committing district for his recommitment upon the grounds
 8 set forth in subsection (1) for a further period of ninety
 9 (90) days unless sooner discharged. If a person has been
 10 committed because he is an alcoholic likely to inflict
 11 physical harm on another, the ~~department-of-institutions~~
 12 division shall apply for recommitment if after examination
 13 it is determined that the likelihood still exists.

14 (6) A person recommitment under subsection (5) who has
 15 not been discharged by the ~~department-of-institutions~~
 16 division before the end of the ninety (90) day period shall
 17 be discharged at the expiration of that period unless the
 18 ~~department-of-institutions division~~, before expiration of
 19 the period, obtains a court order from the district court of
 20 the committing district on the grounds set forth in
 21 subsection (1) for recommitment for a further period not to
 22 exceed ninety (90) days. If a person has been committed
 23 because he is an alcoholic likely to inflict physical harm
 24 on another, the ~~department~~ division shall apply for
 25 recommitment if after examination it is determined that the

1 likelihood still exists. Only two (2) recommitment orders
 2 under subsections (5) and (6) are permitted.

3 (7) Upon the filing of a petition for recommitment
 4 under subsections (5) or (6), the court shall fix a date for
 5 hearing no later than ten (10) days after the date the
 6 petition was filed. A copy of the petition and of the notice
 7 of hearing, including the date fixed by the court, shall be
 8 served on the petitioner, the person whose commitment is
 9 sought, his next of kin other than the petitioner, the
 10 original petitioner under subsection (1) if different from
 11 the petitioner for recommitment, one of his parents or his
 12 legal guardian if he is a minor, and any other person the
 13 court believes advisable. At the hearing the court shall
 14 proceed as provided in subsection (3).

15 (8) A person committed to the custody of the ~~department~~
 16 of-institutions division for treatment shall be discharged
 17 at any time before the end of the period for which he has
 18 been committed if either of the following conditions is met:

19 (a) in case of an alcoholic committed on the grounds of
 20 likelihood of infliction of physical harm upon another, that
 21 he is no longer in need of treatment or the likelihood no
 22 longer exists; or

23 (b) in case of an alcoholic committed on the grounds of
 24 the need of treatment and incapacity, that the incapacity no
 25 longer exists, further treatment will not be likely to bring

1 about significant improvement in the person's condition, or
2 treatment is no longer adequate or appropriate.

3 (9) The court shall inform the person whose commitment
4 or recommitment is sought of his right to contest the
5 application, be represented by counsel at every stage of any
6 proceedings relating to his commitment and recommitment, and
7 have counsel appointed by the court or provided by the
8 court, if he wants the assistance of counsel and is unable
9 to obtain counsel. If the court believes that the person
10 needs the assistance of counsel, the court shall require, by
11 appointment if necessary, counsel for him regardless of his
12 wishes. The person whose commitment or recommitment is
13 sought shall be informed of his right to be examined by a
14 licensed physician of his choice. If the person is unable to
15 obtain a licensed physician and requests examination by a
16 physician, the court shall employ a licensed physician.

17 (10) If a private treatment facility agrees with the
18 request of a competent patient or his parent, sibling, adult
19 child, or guardian to accept the patient for treatment, the
20 ~~department-of-institutions~~ division may transfer him to the
21 private treatment facility.

22 (11) A person committed under this section may at any
23 time seek to be discharged from commitment by writ of habeas
24 corpus or other appropriate means.

25 (12) The venue for proceedings under this section is

1 the place in which person to be committed resides or is
2 present."

3 Section 13. Section 80-2719, R.C.M. 1947, is amended
4 to read as follows:

5 "80-2719. Records of alcoholics and intoxicated
6 persons. (1) The registration and other records of treatment
7 facilities shall remain confidential and are privileged to
8 the patient.

9 (2) Notwithstanding subsection (1), the ~~department~~
10 division may make available information from patients'
11 records for purposes of research into the causes and
12 treatment of alcoholism. Information under this subsection
13 shall not be published in a way that discloses patients'
14 names or other identifying information."

15 Section 14. Section 80-2720, R.C.M. 1947, is amended
16 to read as follows:

17 "80-2720. Visitation and communication of patients.

18 (1) Subject to reasonable rules regarding hours of
19 visitation which the ~~department~~ division may adopt, patients
20 in any approved treatment facility shall be granted
21 opportunities for adequate consultation with counsel, and
22 for continuing contact with family and friends consistent
23 with an effective treatment program.

24 (2) Neither mail nor other communication to or from a
25 patient in any approved treatment facility may be

1 intercepted, read, or censored. The administrator may adopt
2 reasonable rules regarding the use of telephone by patients
3 in approved treatment facilities."

4 Section 15. Section 80-2722, R.C.M. 1947, is amended
5 to read as follows:

6 "80-2722. ~~Departmental reports~~ Reports to legislature.
7 The department division shall achieve full implementation of
8 the provisions of the act, as set forth in this chapter and
9 related sections, no later than January 1, 1976. A progress
10 report on the implementation shall be made to the 1975
11 legislative session. Thereafter the department division
12 shall report, to each legislative session, on the status of
13 the implemented act. This report, or any part thereof, may
14 be included as the department's state plan for alcohol abuse
15 and alcoholism."

16 Section 16. There is a new R.C.M. section numbered
17 80-2725 that reads as follows:

18 80-2725. State-approved alcoholism programs utilizing
19 funding generated by taxation on alcoholic beverages.

20 (1) State-approved alcoholism programs utilizing funding
21 for the treatment, rehabilitation, and prevention of
22 alcoholism, as provided by the counties of Montana and the
23 division, generated by taxation on alcoholic beverages shall
24 not be required to provide matching funds. This section
25 shall not preclude the acceptance, by approved alcoholic

1 programs in Montana, of gifts, bequests, or the donation of
2 services or money for the treatment, rehabilitation, or
3 prevention of alcoholism.

4 (2) State-approved alcoholism programs using revenue
5 generated by the taxation on alcoholic beverages may not
6 refuse treatment, rehabilitation, or prevention of
7 alcoholism services solely because of an individual's
8 inability to pay.

9 (3) When revenue is generated by the payments of fees
10 for services by state-approved alcoholism programs, such
11 payments for services must be returned to:

12 (a) the county treasurer of a county in which funding
13 has been provided from taxation on alcoholic beverages to
14 the extent of funds allocated to the program by the county.

15 (b) the state's general fund when funding has been
16 provided from taxation on alcoholic beverages to the extent
17 of such funding as allocated to the program by the division.

18 (4) Revenue generated by 4-1-401 and 4-1-404 for the
19 treatment, rehabilitation, and prevention of alcoholism
20 which has not been encumbered for those purposes by the
21 counties of Montana and the division shall be returned to
22 the state's general fund within 30 days after the close of
23 each fiscal year.

24 Section 17. Section 4-1-401, R.C.M. 1947, is amended
25 to read as follows:

1 *4-1-401. License tax on liquor -- amount --
 2 distribution of proceeds. The department of revenue is
 3 hereby authorized and directed to charge, receive and
 4 collect at the time of sale and delivery of any liquor under
 5 any provisions of the laws of the state of Montana a license
 6 tax of ~~five-percent-(5%)~~ 15% of the retail selling price on
 7 all liquor so sold and delivered. Said tax shall be charged
 8 and collected on all liquor brought into the state and taxed
 9 by the department of revenue. The retail selling price
 10 shall be computed by adding to the cost of said liquor the
 11 state markup as designated by the department. Said ~~five~~
 12 ~~percent-(5%)~~ 15% license tax shall be figured in the same
 13 manner as the state excise tax and shall be in addition to
 14 said state excise tax. The department of revenue shall
 15 retain the amount of such ~~five-percent-(5%)~~ 15% license tax
 16 so received in a separate account. ~~Four-fifths--(4/5)~~
 17 Two-thirds of these revenues shall be distributed to the
 18 counties according to the amount of liquor purchased in each
 19 county. ~~One-fifth--(1/5)~~ One-third of these revenues shall
 20 ~~be deposited in the general fund~~ retained by the state.
 21 Provided, however, in the case of purchases of liquor by a
 22 retail liquor licensee for use in his business, the
 23 department shall make such regulations as are necessary to
 24 apportion that proportion of license tax so generated to the
 25 county where the licensed establishment is located, for use

1 as provided in section 4-1-402, R.C.M. 1947. The department
 2 of revenue shall pay quarterly to each county treasurer the
 3 proportion of the license tax due each county.

4 The county treasurer of each county shall retain
 5 ~~one-fourth--(1/4)~~ seven-tenths of said license tax, and
 6 shall, within ~~thirty--(30)~~ days after receipt thereof,
 7 apportion the remaining ~~three-fourths--(3/4)~~ three-tenths
 8 thereof to the treasurers of the incorporated cities and
 9 towns within his county, said apportionment to be based in
 10 each instance upon the proportion which the gross sale of
 11 liquor in such incorporated city or town bears to the gross
 12 sale of liquor in all of the incorporated cities and towns
 13 in his said county.

14 Of the seven-tenths of the tax retained by the county,
 15 the county treasurer shall deposit six-sevenths of this
 16 amount in a fund within the county for the treatment,
 17 rehabilitation, and prevention of alcoholism as approved by
 18 the state of Montana. The remaining one-seventh of the funds
 19 shall be retained in the county treasury for use by that
 20 county.

21 The one-third of the license tax on liquor retained by
 22 the state shall be deposited within the division of alcohol
 23 and drug dependency each quarter for the treatment,
 24 rehabilitation and prevention of alcoholism as approved by
 25 the state."

1 Section 18. Section 4-1-404, R.C.M. 1947, is amended
2 to read as follows:

3 "4-1-404. Tax on imported beer -- computation in case
4 of barrels of capacity other than thirty-one gallons. A tax
5 of three dollars (\$3) per barrel of thirty-one (31) gallons,
6 is hereby levied and imposed on each and every barrel of
7 beer manufactured out of this state and sold herein by any
8 wholesaler, which said tax shall be due at the end of each
9 month from said wholesaler, upon any such beer so sold by
10 him during that month. As to any beer imported and sold in
11 containers other than barrels, or in barrels of more or less
12 capacity than thirty-one (31) gallons, the quantity content
13 shall be ascertained and computed by the department of
14 revenue in determining the amount of tax due, as herein
15 provided for. An additional tax of ~~twenty-five cents (\$0.25)~~
16 \$1.75 per barrel is levied and imposed as provided by this
17 section, and such additional tax is also to be levied and
18 imposed at the same rate upon beer manufactured within the
19 state. The additional tax of ~~twenty-five cents (\$0.25)~~ \$1.75
20 is to be deposited, notwithstanding sections 4-1-407 and
21 4-1-408, or any other provision, ~~in the general fund within~~
22 the division of alcohol and drug dependency each quarter for
23 the treatment, rehabilitation, and prevention of alcoholism
24 as approved by the state."

-END-

STATE OF MONTANA

REQUEST NO. 338-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 4, 19 77, there is hereby submitted a Fiscal Note for House Bill 627 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 amend certain provisions of the Uniform Alcoholism Intoxication Act; establishing a Division of Alcohol and Drug Dependency; increasing the tax on alcoholic beverages to create funding for authorized programs.

ASSUMPTIONS:

1. The establishment of a Division of Alcohol and Drug Dependency would have no fiscal impact due to no increase in staff or salaries. The job duties would remain the same.
2. Projected expenditures for alcohol services are as reflected in the Executive Budget.
3. \$1.50 per barrel of the tax on beer will continue to be deposited in the General Fund.
4. Removing the 1/3 match requirement will have no effect on state funds.
5. Fees assessed people receiving services returned to the county or state will have minimal effect.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Effect on General Fund		
Recommended General Fund expenditures for state alcohol programs	\$1.598M	\$1.591M
Current law revenue on beer and liquor tax to General Fund	<u>1.879M</u>	<u>2.027M</u>
Net to General Fund	.281M	.436M
Proposed law revenue on beer and liquor tax to General Fund	<u>1.263M</u>	<u>1.373M</u>
Net gain to General Fund	<u>\$.982M</u>	<u>\$.937M</u>
Funds available for alcohol services under House Bill 627		
State	\$3.502M	\$3.731M
Local	<u>2.435M</u>	<u>2.556M</u>
	5.937M	6.287M
Proposed expenditures	<u>5.495M</u>	<u>5.601M</u>
Reversion to Earmarked Revenue Account	<u>\$.442M</u>	<u>\$.686M</u>

TECHNICAL NOTE:

The funds provided by the tax on alcohol for alcohol services should be set up in this bill as an "Earmarked Revenue Account" to provide for clarity of the law and more accountability. This should be reflected throughout the bill to handle reversions and revenues for the portion of the tax on alcohol for alcohol services.

Richard L. Drury for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-7-77

STATE OF MONTANA

REQUEST NO. 338-77

FISCAL NOTE

(amended)

Form BD-15

In compliance with a written request received April 12, 19 77, there is hereby submitted a Fiscal Note for House Bill 627 Amended 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 amend certain provisions of the uniform Alcoholism Intoxication Act increasing the tax on alcoholic beverages to create funding for authorized programs.

ASSUMPTIONS:

1. Projected expenditures for alcohol services are as reflected in House Bill 145.
2. \$1.50 per barrel of the \$4.00 tax on beer will continue to be deposited into the General Fund; \$1.50 will be for cities and counties and the remaining \$1.00 will go to an Earmarked Revenue Account for alcohol programs.
3. As amended, the change in percentage allocation impacts local government general funds and local funds available for alcohol programs. The amendments do not change the effect on the state General Fund as presented in the previous fiscal note.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Funds available for alcohol services under House Bill 627*		
State	\$2.194 M	\$2.335 M
Local	<u>1.159 M</u>	<u>1.217 M</u>
Total	<u>\$3,353 M</u>	<u>\$3,552 M</u>
 Additional General Fund monies available for other purposes under proposed law	 <u>\$1,262 M</u>	 <u>\$1,372 M</u>

*It is anticipated that all funds available for alcohol services will be expended in the 1979 biennium.

Richard J. Franjo
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 7-15-77

Approved by Committee
on Taxation

HOUSE BILL NO. 627

INTRODUCED BY W. BAETH, FABREGA, ROTH, SHELDEN, HULAR,
GILLIGAN, UNDERDAL, E. GUNDERSON, LUND, HOLMES, R. BAETH,
KROPP, STAIGMILLER, DASSINGER, ELLERD, L. HIRSCH, CURTISS,
MCLANE, UHDE, BRAND, BURNETT, J. GUNDERSON, MELOY, VINCENT,
RAMIREZ, COURTNEY, KESSLER, KENNERLY, GERKE, MANUEL, SCULLY,
WILLIAMS, PALMER, HALVORSEN, O'CONNELL, ELLIS, O'KEEFE, DAY,
FEDA, ERNST, RYAN, COX, WALDRON, KEYSER, DUSSAULT, PISTOKIA,
HUENNEKENS, FRATES, HARPER, BENGTSON, WOOD, BRADLEY, ROBBINS,
LIEN, SOUTH, JENSEN, DRISCOLL, STOBIE, ELLISON, HAND, HANSEN,
QUILICI, CONROY, FAGG, KANDUCH, BARDANOUVE, METCALF, MENAHAN,
A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND CERTAIN
PROVISIONS OF THE UNIFORM ALCOHOLISM INTOXICATION ACT,
ESTABLISHING A DIVISION OF ALCOHOL AND DRUG DEPENDENCY
DEPENDENCE; INCREASING THE TAX ON ALCOHOLIC BEVERAGES TO
CREATE FUNDING FOR AUTHORIZED PROGRAMS; ESTABLISHING CERTAIN
REQUIREMENTS FOR PROGRAMS RECEIVING STATE FUNDING SUPPORT;
AMENDING SECTIONS 4-1-401, 80-2702, 80-2703, 80-2709 THROUGH
80-2720, AND 80-2722, R.C.M. 1947."

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

Section 1. Section 80-2702, R.C.M. 1947, is amended to
read as follows:

"80-2702. Duties of department -- department

authorized to accept gifts -- enter into contracts --
acquire and dispose of property. (1) The department of
institutions, hereafter referred to as department in this
chapter, shall:

(a) Plan, promote, and assist in the support of
alcohol and drug dependence prevention, treatment, and
control programs;

(b) Conduct, sponsor, and support research,
investigations, and studies, including evaluation, of all
phases of alcohol and drug dependence;

(c) Assist the development of educational and training
programs relative to alcohol and drug dependence, and carry
on programs to assist the public, and technical and
professional groups, in becoming fully informed about
alcohol and drug dependence;

(d) Promote, develop, and assist, financially and
otherwise, alcohol and drug dependence programs administered
by other state agencies, local government agencies, and
private nonprofit organizations and agencies;

(e) Encourage and promote effective use of facilities,
resources, and funds in the planning and conduct of programs
and activities for prevention, treatment, and control of
alcohol and drug dependence and, in this respect, cooperate
with and utilize to the maximum possible extent the
resources and services of federal, state, and local

SECOND READING

1 agencies.

2 ~~(f) Establish a division of alcohol and drug~~
3 ~~dependence.~~

4 (2) To carry out this act, the department may:

5 (a) Accept gifts, grants, and donations of money and
6 property from public and private sources;

7 (b) Enter into contracts;

8 (c) Acquire and dispose of property."

9 Section 2. Section 80-2703, R.C.M. 1947, is amended to
10 read as follows:

11 "80-2703. Administration of federal program. The
12 ~~department of institutions division of alcohol and drug~~
13 ~~dependence~~ is hereby designated the single state agency for
14 the administration of federal programs under:

15 (1) the Drug Abuse Office and Treatment Act of 1972,
16 Public Law 92-255 as amended, 21 U.S.C. section 1176; and

17 (2) the Comprehensive Alcohol Abuse and Alcoholism
18 Prevention, Treatment and Rehabilitation Act of 1970, Public
19 Law 91-616 as amended, 42 U.S.C. section 4573."

20 Section 3. Section 80-2709, R.C.M. 1947, is amended to
21 read as follows:

22 "80-2709. Definitions. For purposes of this act
23 chapter:

24 (1) "alcoholic" means a person who habitually lacks
25 self-control as to the use of alcoholic beverages, or uses

1 alcoholic beverages to the extent that his health is
2 substantially impaired or endangered or his social or
3 economic function is substantially disrupted;

4 (2) "approved private treatment facility" means a
5 private agency meeting the standards prescribed in section
6 ~~69-6216~~ 80-2713(1) and approved under section ~~69-6216~~
7 80-2713;

8 (3) "approved public treatment facility" means a
9 treatment agency operating under the direction and control
10 of the department or providing treatment under this act
11 ~~CHAPTER~~ through a contract with the department and approved
12 under section ~~69-6216~~ 80-2713;

13 (4) "department" means the department of institutions
14 provided for in section 82A-801, R.C.M. 1947;

15 ~~(5) "division" means the division of alcohol and drug~~
16 ~~dependence ESTABLISHED BY THE DEPARTMENT UNDER 80-2702;~~

17 ~~(6)(16)~~ "incapacitated by alcohol" means that a person,
18 as a result of the use of alcohol, is unconscious or has his
19 judgment otherwise so impaired that he is incapable of
20 realizing and making a rational decision with respect to his
21 need for treatment;

22 ~~(7)(17)~~ "incompetent person" means a person who has
23 been adjudged incompetent by the district court;

24 ~~(7)(18)~~ "intoxicated person" means a person whose
25 mental or physical functioning is substantially impaired as

1 a result of the use of alcohol;

2 ~~(8)(9) "treatment" means the broad range of emergency,~~
 3 ~~outpatient, intermediate, and inpatient services and care,~~
 4 ~~including diagnostic evaluation, medical, psychiatric,~~
 5 ~~psychological, and social service care, vocational~~
 6 ~~rehabilitation and career counseling, which may be extended~~
 7 ~~to alcoholics, and intoxicated persons, and family members;~~

8 ~~(10) "family member", is the spouse, mother, father,~~
 9 ~~child, or member of the household of an alcoholic whose life~~
 10 ~~has been affected by the actions of the alcoholic and may~~
 11 ~~require treatment;~~

12 ~~(11) "prevention" has meaning on four levels; these~~
 13 ~~are:~~

14 ~~(a) education to provide information to the school~~
 15 ~~children and general public relating to alcohol dependence~~
 16 ~~and alcoholism, treatment, and rehabilitative services and~~
 17 ~~to reduce the consequences of life experiences acquired by~~
 18 ~~contact with an alcoholic;~~

19 ~~(b) early detection and recovery from the illness~~
 20 ~~before lasting emotional or physical damage, or both, have~~
 21 ~~occurred;~~

22 ~~(c) if lasting emotional or physical damage, or both,~~
 23 ~~have occurred, to arrest the illness before full disability~~
 24 ~~has been reached;~~

25 ~~(d) the provision of facility requirements to meet~~

1 ~~division program standards and improve public accessibility~~
 2 ~~for services."~~

3 Section 4. Section 80-2710, R.C.M. 1947, is amended to
 4 read as follows:

5 "80-2710. Powers of department division. The
 6 department division of alcohol and drug dependence may:

7 (1) plan, establish, and maintain treatment programs as
 8 necessary or desirable;

9 (2) coordinate its activities and cooperate with
 10 alcoholism programs in this and other states, and make
 11 contracts and other joint or cooperative arrangements with
 12 state, local, or private agencies in this and other states
 13 for the treatment of alcoholics and intoxicated persons and
 14 for the common advancement of alcoholism programs;

15 (3) do other acts and things necessary or convenient to
 16 execute the authority expressly granted to it; and

17 (4) provide treatment facilities for alcoholics, and
 18 intoxicated persons, and family members."

19 Section 5. Section 80-2711, R.C.M. 1947, is amended to
 20 read as follows:

21 "80-2711. Duties of department division. The
 22 department division shall:

23 (1) develop, encourage, and foster statewide, regional,
 24 and local plans and programs for the prevention of
 25 alcoholism and treatment of alcoholics and intoxicated

1 persons in cooperation with public and private agencies,
 2 organizations, and individuals and provide technical
 3 assistance and consultation services for these purposes;

4 (2) coordinate the efforts and enlist the assistance of
 5 all public and private agencies, organizations, and
 6 individuals interested in prevention of alcoholism and
 7 treatment of alcoholics and intoxicated persons;

8 (3) cooperate with the ~~department of institutions~~ and
 9 board of pardons in establishing and conducting programs to
 10 provide treatment for alcoholics and intoxicated persons in
 11 or on parole from penal institutions;

12 (4) cooperate with the department of education, the
 13 superintendent of public instruction, schools, police
 14 departments, courts, and other public and private agencies,
 15 organizations and individuals in establishing programs for
 16 the prevention of alcoholism and treatment of alcoholics and
 17 intoxicated persons, and preparing curriculum materials
 18 thereon for use at all levels of education;

19 (5) prepare, publish, evaluate, and disseminate
 20 educational material dealing with the nature and effects of
 21 alcohol;

22 (6) develop and implement, as an integral part of
 23 treatment programs, an educational program for use in the
 24 treatment of alcoholics and intoxicated persons, which
 25 program shall include the dissemination of information

1 concerning the nature and effects of alcohol;

2 (7) organize and foster training programs for all
 3 persons engaged in treatment of alcoholics and intoxicated
 4 persons;

5 (8) sponsor and encourage research into the causes and
 6 nature of alcoholism and treatment of alcoholics and
 7 intoxicated persons, and serve as a clearing house for
 8 information relating to alcoholism;

9 (9) specify uniform methods for keeping statistical
 10 information by public and private agencies, organizations,
 11 and individuals, and collect and make available relevant
 12 statistical information, including number of persons
 13 treated, frequency of admission and readmission, and
 14 frequency and duration of treatment;

15 (10) advise the governor in the preparation of a
 16 comprehensive plan for treatment of alcoholics and
 17 intoxicated persons for inclusion in the state's
 18 comprehensive health plan;

19 (11) review all state health, welfare, and treatment
 20 plans to be submitted for federal funding under federal
 21 legislation, and advise the governor on provisions to be
 22 included relating to alcoholism and intoxicated persons;

23 (12) assist in the development of, and cooperate with,
 24 alcohol education and treatment programs for employees of
 25 state and local governments and businesses and industries in

1 the state;

2 (13) utilize the support and assistance of interested
3 persons in the community, particularly recovered alcoholics,
4 to encourage alcoholics voluntarily to undergo treatment;

5 (14) cooperate with the department of justice in
6 establishing and conducting programs designed to deal with
7 the problem of persons operating motor vehicles while
8 intoxicated;

9 (15) encourage general hospitals and other appropriate
10 health facilities to admit without discrimination alcoholics
11 and intoxicated persons and to provide them with adequate
12 and appropriate treatment;

13 (16) encourage all health and disability insurance
14 programs to include alcoholism as a covered illness; and

15 (17) submit to the governor an annual report covering
16 the activities of the department division."

17 Section 6. Section 80-2712, R.C.M. 1947, is amended to
18 read as follows:

19 "80-2712. Comprehensive program for treatment. (1) The
20 department division shall establish a comprehensive and
21 coordinated program for the treatment of alcoholics, and
22 intoxicated persons, and family members.

23 (2) The program shall include:

24 (a) emergency treatment provided by a facility
25 affiliated with or part of the medical service of a general

1 hospital;

2 (b) inpatient treatment;

3 (c) intermediate treatment; and

4 (d) outpatient and followup treatment.

5 (3) The department division shall provide for adequate
6 and appropriate treatment for alcoholics and intoxicated
7 persons admitted under sections ~~69-6218 to 69-6221~~ 80-2715
8 through 80-2718. Treatment may not be provided at a
9 correctional institution except for inmates.

10 (4) All appropriate public and private resources shall
11 be coordinated with and utilized in the program if possible.

12 (5) The department division shall prepare, publish, and
13 distribute annually a list of all approved public and
14 private treatment facilities."

15 Section 7. Section 80-2713, R.C.M. 1947, is amended to
16 read as follows:

17 "80-2713. Facility standards -- inspections --
18 approvals. (1) The department division shall establish
19 standards for approved treatment facilities that must be met
20 for a treatment facility to be approved as a public or
21 private treatment facility, and fix the fees to be charged
22 for the required inspections. The standards may concern only
23 the health standards to be met and standards of treatment to
24 be afforded patients.

25 (2) The department division periodically shall inspect

1 approved public and private treatment facilities at
2 reasonable times and in a reasonable manner.

3 (3) The department division shall maintain a list of
4 approved public and private treatment facilities.

5 (4) Each approved public and private treatment facility
6 shall file with the department division on request, data,
7 statistics, schedules, and information the department
8 division reasonably requires. An approved public or private
9 treatment facility that without good cause fails to furnish
10 any data, statistics, schedules, or information as
11 requested, or files fraudulent returns thereof, shall be
12 removed from the list of approved treatment facilities.

13 (5) The department division, after holding a hearing in
14 accordance with the Administrative Procedure Act, may
15 suspend, revoke, limit, or restrict an approval, or refuse
16 to grant an approval, for failure to meet its standards.

17 (6) A district court may restrain any violation of this
18 section, review any denial, restriction, or revocation of
19 approval, and grant other relief required to enforce its
20 provisions.

21 (7) Upon petition of the department division and after
22 a hearing held upon reasonable notice to the facility, a
23 district court may issue a warrant to the department
24 division authorizing it to enter and inspect at reasonable
25 times, and examine the books and accounts of, any approved

1 public or private treatment facility refusing to consent to
2 inspection or examination by the department division or
3 which the department division has reasonable cause to
4 believe is operating in violation of this act."

5 Section 8. Section 80-2714, R.C.M. 1947, is amended to
6 read as follows:

7 "80-2714. Acceptance for treatment -- rules. The
8 department division shall adopt rules for acceptance of
9 persons into the treatment program, considering available
10 treatment resources and facilities, for the purpose of early
11 and effective treatment of alcoholics, and intoxicated
12 persons, ~~and family members~~. In adopting the rules the
13 department division shall be guided by the following
14 standards:

15 (1) If possible a patient shall be treated on a
16 voluntary rather than an involuntary basis.

17 (2) A patient shall be initially assigned or
18 transferred to outpatient or intermediate treatment, unless
19 he is found to require inpatient treatment.

20 (3) A person shall not be denied treatment solely
21 because he has withdrawn from treatment against medical
22 advice on a prior occasion or because he has relapsed after
23 earlier treatment.

24 (4) An individualized treatment plan shall be prepared
25 and maintained on a current basis for each patient person.

1 (5) Provision shall be made for a continuum of
2 coordinated treatment services, so that a person who leaves
3 a facility or a form of treatment will have available and
4 utilize other appropriate treatment."

5 Section 9. Section 80-2715, R.C.M. 1947, is amended to
6 read as follows:

7 "80-2715. Voluntary treatment of alcoholics. (1) An
8 alcoholic may apply for voluntary treatment directly to an
9 approved public treatment facility. If the proposed patient
10 is a minor or an incompetent person, he, a parent, a legal
11 guardian, or other legal representative may make the
12 application.

13 (2) Subject to rules adopted by the department
14 division, the administrator of an approved public treatment
15 facility may determine who shall be admitted for treatment.
16 If a person is refused admission to an approved public
17 treatment facility, the administrator, subject to
18 departmental division rules, shall refer the person to
19 another approved public treatment facility for treatment if
20 possible and appropriate.

21 (3) If a patient receiving inpatient care leaves an
22 approved public treatment facility, he shall be encouraged
23 to consent to appropriate outpatient or intermediate
24 treatment. If it appears to the administrator of the
25 treatment facility that the patient is an alcoholic who

1 requires help, the department division shall arrange for
2 assistance in obtaining supportive services and residential
3 facilities.

4 (4) If a patient leaves an approved public treatment
5 facility, with or against the advice of the administrator of
6 the facility, the department division shall make reasonable
7 provisions for his transportation to another facility or to
8 his home. If he has no home he shall be assisted in
9 obtaining shelter. If he is a minor or an incompetent person
10 the request for discharge from an inpatient facility shall
11 be made by a parent, legal guardian, or other legal
12 representative or by the minor or incompetent if he was the
13 original applicant."

14 Section 10. Section 80-2716, R.C.M. 1947, is amended
15 to read as follows:

16 "80-2716. Treatment and services for intoxicated
17 persons and persons incapacitated by alcohol. (1) An
18 intoxicated person may come voluntarily to an approved
19 public treatment facility for emergency treatment. A person
20 who appears to be intoxicated in a public place and to be in
21 need of help, if he consents to the proffered help, may be
22 assisted to his home, an approved public treatment facility,
23 an approved private treatment facility, or other health
24 facility by the police.

25 (2) A person who appears to be incapacitated by alcohol

1 shall be taken into protective custody by the police and
 2 forthwith brought to an approved public treatment facility
 3 for emergency treatment. If no approved public treatment
 4 facility is readily available he shall be taken to an
 5 emergency medical service customarily used for incapacitated
 6 persons. The police, in detaining the person and in taking
 7 him to an approved public treatment facility, is taking him
 8 into protective custody and shall make every reasonable
 9 effort to protect his health and safety. In taking the
 10 person into protective custody, the detaining officer may
 11 take reasonable steps to protect himself. No entry or other
 12 record may be made to indicate that the person taken into
 13 custody under this section has been arrested or charged with
 14 a crime.

15 (3) A person who comes voluntarily or is brought to an
 16 approved public treatment facility shall be examined by a
 17 licensed physician as soon as possible. He may then be
 18 admitted as a patient or referred to another health
 19 facility. The referring approved public treatment facility
 20 shall arrange for his transportation.

21 (4) A person who by medical examination is found to be
 22 incapacitated by alcohol at the time of his admission or to
 23 have become incapacitated at any time after his admission,
 24 may not be detained at the facility (1) once he is no longer
 25 incapacitated by alcohol, or (2) if he remains incapacitated

1 by alcohol for more than forty-eight (48) hours after
 2 admission as a patient, unless he is committed under section
 3 ~~69-6226~~ 80-2717. A person may consent to remain in the
 4 facility as long as the physician in charge believes
 5 appropriate.

6 (5) A person who is not admitted to an approved public
 7 treatment facility and is not referred to another health
 8 facility, may be taken to his home. If he has no home, the
 9 approved public treatment facility shall assist him in
 10 obtaining shelter.

11 (6) If a patient is admitted to an approved public
 12 treatment facility, his family or next of kin shall be
 13 notified as promptly as possible. If an adult patient who is
 14 not incapacitated requests that there be no notification,
 15 his request shall be respected."

16 Section 11. Section 80-2717, R.C.M. 1947, is amended
 17 to read as follows:

18 "80-2717. Emergency commitment. (1) An intoxicated
 19 person who (a) has threatened, attempted, or inflicted
 20 physical harm on another and is likely to inflict physical
 21 harm on another unless committed, or (b) is incapacitated by
 22 alcohol, may be committed to an approved public treatment
 23 facility for emergency treatment. A refusal to undergo
 24 treatment does not constitute evidence of lack of judgment
 25 as to the need for treatment.

1 (2) The certifying physician, spouse, guardian, or
 2 relative of the person to be committed, or any other
 3 responsible person, may make a written application for
 4 commitment under this section, directed to the administrator
 5 of the approved public treatment facility. The application
 6 shall state facts to support the need for emergency
 7 treatment and be accompanied by a physician's certificate
 8 stating that he has examined the person sought to be
 9 committed within two (2) days before the certificate's date
 10 and facts supporting the need for emergency treatment. A
 11 physician employed by the admitting facility or the
 12 department is not eligible to be the certifying physician.

13 (3) Upon approval of the application by the
 14 administrator of the approved public treatment facility, the
 15 person shall be brought to the facility by a peace officer,
 16 health officer, the applicant for commitment, the patient's
 17 spouse, the patient's guardian, or any other interested
 18 person. The person shall be retained at the facility to
 19 which he was admitted, or transferred to another appropriate
 20 public or private treatment facility, until discharged under
 21 subsection (5).

22 (4) The administrator of an approved public treatment
 23 facility shall refuse an application if in his opinion the
 24 application and certificate fail to sustain the grounds for
 25 commitment.

1 (5) When on the advice of the medical staff the
 2 administrator determines that the grounds for commitment no
 3 longer exist, he shall discharge a person committed under
 4 this section. No person committed under this section may be
 5 detained in any treatment facility for more than five (5)
 6 days. If a petition for involuntary commitment under section
 7 ~~69-6221~~ 80-2718 has been filed within the five (5) days and
 8 the administrator in charge of an approved public treatment
 9 facility finds that grounds for emergency commitment still
 10 exist, he may detain the person until the petition has been
 11 heard and determined, but no longer than ten (10) days after
 12 filing the petition.

13 (6) A copy of the written application for commitment
 14 and of the physician's certificate, and a written
 15 explanation of the person's right to counsel, shall be given
 16 to the person within twenty-four (24) hours after commitment
 17 by the ~~department~~ division, who shall provide a reasonable
 18 opportunity for the person to consult counsel."

19 Section 12. Section 80-2718, R.C.M. 1947, is amended
 20 to read as follows:

21 "80-2718. Involuntary commitment of alcoholics. (1) A
 22 person may be committed to the custody of the ~~department--of~~
 23 institutions division by the district court upon the
 24 petition of his spouse or guardian, a relative, the
 25 certifying physician, or the chief of any approved public

1 treatment facility. The petition shall allege that the
 2 person is an alcoholic who habitually lacks self-control as
 3 to the use of alcoholic beverages and that he (a) has
 4 threatened, attempted, or inflicted physical harm on another
 5 and that unless committed is likely to inflict physical harm
 6 on another; or (b) is incapacitated by alcohol. A refusal to
 7 undergo treatment does not constitute evidence of lack of
 8 judgment as to the need for treatment. The petition shall be
 9 accompanied by a certificate of a licensed physician who has
 10 examined the person within two (2) days before submission of
 11 the petition, unless the person whose commitment is sought
 12 has refused to submit to a medical examination, in which
 13 case the fact of refusal shall be alleged in the petition.
 14 The certificate shall set forth the physician's findings in
 15 support of the allegations of the petition. A physician
 16 employed by the admitting facility or the ~~department~~
 17 division is not eligible to be the certifying physician.

18 (2) Upon filing the petition, the court shall fix a
 19 date for a hearing no later than ten (10) days after the
 20 date the petition was filed. A copy of the petition and of
 21 the notice of the hearing, including the date fixed by the
 22 court, shall be served on the petitioner, the person whose
 23 commitment is sought, his next of kin other than the
 24 petitioner, a parent or his legal guardian if he is a minor,
 25 the administrator in charge of the approved public treatment

1 facility to which he has been committed for emergency care,
 2 and any other person the court believes advisable. A copy of
 3 the petition and certificate shall be delivered to each
 4 person notified.

5 (3) At the hearing the court shall hear all relevant
 6 testimony, including, if possible, the testimony of at least
 7 one licensed physician who has examined the person whose
 8 commitment is sought. The person shall have a right to have
 9 a licensed physician of his own choosing examine him and
 10 testify on his behalf, and if he has no funds with which to
 11 pay such physician, the reasonable costs of one such
 12 examination and testimony shall be paid by the county. The
 13 person shall be present unless the court believes that his
 14 presence is likely to be injurious to him; he shall be
 15 advised of his right to counsel and, if he is unable to hire
 16 his own counsel, the court shall appoint an attorney to
 17 represent him at the expense of the county. The court shall
 18 examine the person in open court, or if advisable, shall
 19 examine the person in chambers. If he refuses an examination
 20 by a licensed physician and there is sufficient evidence to
 21 believe that the allegations of the petition are true, or if
 22 the court believes that more medical evidence is necessary,
 23 the court may make a temporary order committing him to the
 24 ~~department-of-institutions~~ division for a period of not more
 25 than five (5) days for purposes of a diagnostic examination.

1 (4) If after hearing all relevant evidence, including
 2 the results of any diagnostic examination by the department
 3 ~~of-institutions~~ division, the court finds that grounds for
 4 involuntary commitment have been established by clear and
 5 convincing evidence, it shall make an order of commitment to
 6 the ~~department-of-institutions~~ division. It may not order
 7 commitment of a person unless it determines that the
 8 ~~department-of--institutions~~ division is able to provide
 9 adequate and appropriate treatment for him and the treatment
 10 is likely to be beneficial.

11 (5) A person committed under this section shall remain
 12 in the custody of the ~~department-of--institutions~~ division
 13 for treatment for a period of thirty (30) days unless sooner
 14 discharged. At the end of the thirty (30) day period, he
 15 shall be discharged automatically unless the ~~department-of~~
 16 ~~institutions~~ division before expiration of the period
 17 obtains a court order from the district court of the
 18 committing district for his recommitment upon the grounds
 19 set forth in subsection (1) for a further period of ninety
 20 (90) days unless sooner discharged. If a person has been
 21 committed because he is an alcoholic likely to inflict
 22 physical harm on another, the ~~department-of-institutions~~
 23 division shall apply for recommitment if after examination
 24 it is determined that the likelihood still exists.

25 (6) A person recommitment under subsection (5) who has

1 not been discharged by the ~~department-of-institutions~~
 2 division before the end of the ninety (90) day period shall
 3 be discharged at the expiration of that period unless the
 4 ~~department-of--institutions~~ division, before expiration of
 5 the period, obtains a court order from the district court of
 6 the committing district on the grounds set forth in
 7 subsection (1) for recommitment for a further period not to
 8 exceed ninety (90) days. If a person has been committed
 9 because he is an alcoholic likely to inflict physical harm
 10 on another, the ~~department~~ division shall apply for
 11 recommitment if after examination it is determined that the
 12 likelihood still exists. Only two (2) recommitment orders
 13 under subsections (5) and (6) are permitted.

14 (7) Upon the filing of a petition for recommitment
 15 under subsections (5) or (6), the court shall fix a date for
 16 hearing no later than ten (10) days after the date the
 17 petition was filed. A copy of the petition and of the notice
 18 of hearing, including the date fixed by the court, shall be
 19 served on the petitioner, the person whose commitment is
 20 sought, his next of kin other than the petitioner, the
 21 original petitioner under subsection (1) if different from
 22 the petitioner for recommitment, one of his parents or his
 23 legal guardian if he is a minor, and any other person the
 24 court believes advisable. At the hearing the court shall
 25 proceed as provided in subsection (3).

1 (8) A person committed to the custody of the department
 2 ~~of institutions division~~ for treatment shall be discharged
 3 at any time before the end of the period for which he has
 4 been committed if either of the following conditions is met:

5 (a) in case of an alcoholic committed on the grounds of
 6 likelihood of infliction of physical harm upon another, that
 7 he is no longer in need of treatment or the likelihood no
 8 longer exists; or

9 (b) in case of an alcoholic committed on the grounds of
 10 the need of treatment and incapacity, that the incapacity no
 11 longer exists, further treatment will not be likely to bring
 12 about significant improvement in the person's condition, or
 13 treatment is no longer adequate or appropriate.

14 (9) The court shall inform the person whose commitment
 15 or recommitment is sought of his right to contest the
 16 application, be represented by counsel at every stage of any
 17 proceedings relating to his commitment and recommitment, and
 18 have counsel appointed by the court or provided by the
 19 court, if he wants the assistance of counsel and is unable
 20 to obtain counsel. If the court believes that the person
 21 needs the assistance of counsel, the court shall require, by
 22 appointment if necessary, counsel for him regardless of his
 23 wishes. The person whose commitment or recommitment is
 24 sought shall be informed of his right to be examined by a
 25 licensed physician of his choice. If the person is unable to

1 obtain a licensed physician and requests examination by a
 2 physician, the court shall employ a licensed physician.

3 (10) If a private treatment facility agrees with the
 4 request of a competent patient or his parent, sibling, adult
 5 child, or guardian to accept the patient for treatment, the
 6 ~~department--of-institutions division~~ may transfer him to the
 7 private treatment facility.

8 (11) A person committed under this section may at any
 9 time seek to be discharged from commitment by writ of habeas
 10 corpus or other appropriate means.

11 (12) The venue for proceedings under this section is
 12 the place in which person to be committed resides or is
 13 present."

14 Section 13. Section 80-2719, R.C.M. 1947, is amended
 15 to read as follows:

16 "80-2719. Records of alcoholics and intoxicated
 17 persons. (1) The registration and other records of treatment
 18 facilities shall remain confidential and are privileged to
 19 the patient.

20 (2) Notwithstanding subsection (1), the ~~department~~
 21 ~~division~~ may make available information from patients'
 22 records for purposes of research into the causes and
 23 treatment of alcoholism. Information under this subsection
 24 shall not be published in a way that discloses patients'
 25 names or other identifying information."

1 Section 14. Section 80-2720, R.C.M. 1947, is amended
2 to read as follows:

3 "80-2720. Visitation and communication of patients.
4 (1) Subject to reasonable rules regarding hours of
5 visitation which the ~~department~~ division may adopt, patients
6 in any approved treatment facility shall be granted
7 opportunities for adequate consultation with counsel, and
8 for continuing contact with family and friends consistent
9 with an effective treatment program.

10 (2) Neither mail nor other communication to or from a
11 patient in any approved treatment facility may be
12 intercepted, read, or censored. The administrator may adopt
13 reasonable rules regarding the use of telephone by patients
14 in approved treatment facilities."

15 Section 15. Section 80-2722, R.C.M. 1947, is amended
16 to read as follows:

17 "80-2722. ~~Departmental reports~~ Reports to legislature.
18 The ~~department~~ division shall achieve full implementation of
19 the provisions of the act, as set forth in this chapter and
20 related sections, no later than January 1, 1976. A progress
21 report on the implementation shall be made to the 1975
22 legislative session. Thereafter the ~~department~~ division
23 shall report, to each legislative session, on the status of
24 the implemented act. This report, or any part thereof, may
25 be included as the department's state plan for alcohol abuse

1 and alcoholism."

2 Section 16. There is a new R.C.M. section numbered
3 80-2725 that reads as follows:

4 80-2725. State-approved alcoholism programs utilizing
5 funding generated by taxation on alcoholic beverages.
6 ~~(1) State-approved alcoholism programs utilizing funding~~
7 ~~for the treatment, rehabilitation, and prevention of~~
8 ~~alcoholism, as provided by the counties of Montana and the~~
9 ~~division, generated by taxation on alcoholic beverages shall~~
10 ~~not be required to provide matching funds. This section~~
11 ~~shall not preclude the acceptance, by approved alcoholic~~
12 ~~programs in Montana, of gifts, bequests, or the donation of~~
13 ~~services or money for the treatment, rehabilitation, or~~
14 ~~prevention of alcoholism.~~

15 ~~(2) State-approved alcoholism programs using revenue~~
16 ~~generated by the taxation on alcoholic beverages may not~~
17 ~~refuse treatment, rehabilitation, or prevention of~~
18 ~~alcoholism services solely because of an individual's~~
19 ~~inability to pay.~~

20 ~~(3) When revenue is generated by the payments of fees~~
21 ~~for services by state-approved alcoholism programs, such~~
22 ~~payments for services must be returned to:~~

23 ~~(a) the county treasurer of a county in which funding~~
24 ~~has been provided from taxation on alcoholic beverages to~~
25 ~~the extent of funds allocated to the program by the county;~~

1 ~~(b) the state's general fund when funding has been~~
 2 ~~provided from taxation on alcoholic beverages to the extent~~
 3 ~~of such funding as allocated to the program by the division.~~
 4 (1) REVENUE GENERATED BY 4-1-401 AND 4-1-404 FOR THE
 5 TREATMENT, REHABILITATION, AND PREVENTION OF ALCOHOLISM MAY
 6 BE DISTRIBUTED IN EITHER OF THE FOLLOWING MANNERS:
 7 (A) AS PAYMENT OF FEES FOR ALCOHOLISM SERVICES
 8 PROVIDED BY STATE-APPROVED ALCOHOLISM PROGRAMS, CERTIFIED
 9 ALCOHOLISM COUNSELORS, LICENSED PHYSICIANS, AND LICENSED
 10 HOSPITALS; AND
 11 (B) AS GRANTS TO PERSONS OPERATING STATE-APPROVED
 12 ALCOHOLISM PROGRAMS.
 13 (2) NO PERSON OPERATING A STATE-APPROVED ALCOHOLISM
 14 PROGRAM MAY BE REQUIRED TO PROVIDE MATCHING FUNDS AS A
 15 CONDITION OF RECEIVING A GRANT UNDER SUBSECTION (1) OF THIS
 16 SECTION.
 17 (3) IN ADDITION TO FUNDING RECEIVED UNDER THIS
 18 SECTION, A PERSON OPERATING A STATE-APPROVED ALCOHOLISM
 19 PROGRAM MAY ACCEPT GIFTS, BEQUESTS, OR THE DONATION OF
 20 SERVICES OR MONEY FOR THE TREATMENT, REHABILITATION, OR
 21 PREVENTION OF ALCOHOLISM.
 22 (4) NO PERSON RECEIVING FUNDING UNDER THIS SECTION TO
 23 SUPPORT OPERATION OF A STATE-APPROVED ALCOHOLISM PROGRAM MAY
 24 REFUSE ALCOHOLISM TREATMENT, REHABILITATION, OR PREVENTION
 25 SERVICES TO A PERSON SOLELY BECAUSE OF THAT PERSON'S

1 INABILITY TO PAY FOR THOSE SERVICES.
 2 (5) A GRANT MADE UNDER THIS SECTION IS SUBJECT TO THE
 3 FOLLOWING CONDITIONS:
 4 (A) THE GRANT APPLICATION MUST CONTAIN AN ESTIMATE OF
 5 ALL PROGRAM INCOME INCLUDING INCOME FROM EARNED FEES, GIFTS,
 6 BEQUESTS, DONATIONS, AND GRANTS FROM OTHER THAN STATE
 7 SOURCES DURING THE PERIOD FOR WHICH GRANT SUPPORT IS SOUGHT.
 8 (B) WHENEVER, DURING THE PERIOD OF GRANT SUPPORT,
 9 PROGRAM INCOME EXCEEDS THE AMOUNT ESTIMATED IN THE GRANT
 10 APPLICATION, THE AMOUNT OF THE EXCESS SHALL BE REPORTED TO
 11 THE GRANOR.
 12 (C) THE EXCESS SHALL BE USED BY THE GRANTEE UNDER THE
 13 TERMS OF THE GRANT IN ACCORDANCE WITH ONE OR A COMBINATION
 14 OF THE FOLLOWING OPTIONS:
 15 (I) USE FOR ANY PURPOSE THAT FURTHERS THE OBJECTIVES
 16 OF THE LEGISLATION UNDER WHICH THE GRANT WAS MADE; OR
 17 (II) DEDUCT FROM TOTAL PROJECT COSTS TO DETERMINE THE
 18 NET COSTS ON WHICH THE GRANOR'S SHARE OF THE COSTS IS
 19 BASED.
 20 (4)(6) Revenue generated by 4-1-401 and 4-1-404 for
 21 the treatment, rehabilitation, and prevention of alcoholism
 22 which has not been encumbered for those purposes by the
 23 counties of Montana and OR the division shall be returned to
 24 the state's general fund within 30 days after the close of
 25 each fiscal year.

1 Section 17. Section 4-1-401, R.C.M. 1947, is amended
 2 to read as follows:

3 "4-1-401. License tax on liquor -- amount --
 4 distribution of proceeds. The department of revenue is
 5 hereby authorized and directed to charge, receive and
 6 collect at the time of sale and delivery of any liquor under
 7 any provisions of the laws of the state of Montana a license
 8 tax of ~~five percent (5%)~~ 15% of the retail selling price on
 9 all liquor so sold and delivered. Said tax shall be charged
 10 and collected on all liquor brought into the state and taxed
 11 by the department of revenue. The retail selling price
 12 shall be computed by adding to the cost of said liquor the
 13 state markup as designated by the department. Said five
 14 percent ~~(5%)~~ 15% license tax shall be figured in the same
 15 manner as the state excise tax and shall be in addition to
 16 said state excise tax. The department of revenue shall
 17 retain the amount of such ~~five percent (5%)~~ 15% license tax
 18 so received in a separate account. ~~Four-fifths (4/5)~~
 19 ~~Two-thirds~~ of these revenues shall be distributed to the
 20 counties according to the amount of liquor purchased in each
 21 county. ~~One-fifth (1/5)~~ ~~One-third~~ of these revenues shall
 22 be deposited ~~in the general fund~~ retained by the state.
 23 Provided, however, in the case of purchases of liquor by a
 24 retail liquor licensee for use in his business, the
 25 department shall make such regulations as are necessary to

1 apportion that proportion of license tax so generated to the
 2 county where the licensed establishment is located, for use
 3 as provided in section 4-1-402, R.C.M. 1947. The department
 4 of revenue shall pay quarterly to each county treasurer the
 5 proportion of the license tax due each county.

6 The county treasurer of each county shall retain
 7 ~~one-fourth (1/4)~~ ~~seven-tenths~~ of said license tax, and
 8 shall, within ~~thirty (30)~~ days after receipt thereof,
 9 apportion the remaining ~~three-fourths (3/4)~~ ~~three-tenths~~
 10 thereof to the treasurers of the incorporated cities and
 11 towns within his county, said apportionment to be based in
 12 each instance upon the proportion which the gross sale of
 13 liquor in such incorporated city or town bears to the gross
 14 sale of liquor in all of the incorporated cities and towns
 15 in his said county.

16 Of the seven-tenths of the tax retained by the county,
 17 the county treasurer shall deposit six-sevenths of this
 18 amount in a fund within the county for the treatment,
 19 rehabilitation, and prevention of alcoholism as approved by
 20 the state of Montana. The remaining one-seventh of the funds
 21 shall be retained in the county treasury for use by that
 22 county.

23 The one-third of the license tax on liquor retained by
 24 the state shall be deposited within WITH THE STATE TREASURER
 25 TO THE CREDIT OF the division of alcohol and drug dependency

1 DEPENDENCE each quarter for the treatment, rehabilitation
2 and prevention of alcoholism as approved by the state."

3 Section 18. Section 4-1-404, R.C.M. 1947, is amended
4 to read as follows:

5 "4-1-404. Tax on imported beer -- computation in case
6 of barrels of capacity other than thirty-one gallons. A tax
7 of three dollars (\$3) per barrel of thirty-one (31) gallons,
8 is hereby levied and imposed on each and every barrel of
9 beer manufactured out of this state and sold herein by any
10 wholesaler, which said tax shall be due at the end of each
11 month from said wholesaler, upon any such beer so sold by
12 him during that month. As to any beer imported and sold in
13 containers other than barrels, or in barrels of more or less
14 capacity than thirty-one (31) gallons, the quantity content
15 shall be ascertained and computed by the department of
16 revenue in determining the amount of tax due, as herein
17 provided for. An additional tax of ~~twenty-five cents-(\$0.25)~~
18 \$1.75 per barrel is levied and imposed as provided by this
19 section, and such additional tax is also to be levied and
20 imposed at the same rate upon beer manufactured within the
21 state. The additional tax of ~~twenty-five cents-(\$0.25)~~ \$1.75
22 is to be deposited, notwithstanding sections 4-1-407 and
23 4-1-408, or any other provision, ~~in the general fund~~ within
24 WITH THE STATE TREASURER TO THE CREDIT OF the division of
25 alcohol and drug dependency DEPENDENCE each quarter for the

1 treatment, rehabilitation, and prevention of alcoholism as
2 approved by the state."

-End-

1 HOUSE BILL NO. 627

2 INTRODUCED BY W. BAETH, FABREGA, ROTH, SHELDEN, MULAR,
 3 GILLIGAN, UNDERDAL, E. GUNDERSON, LUND, HOLMES, R. BAETH,
 4 KROPP, STAIGMILLER, DASSINGER, ELLERD, L. HIRSCH, CURTISS,
 5 McLANE, UHDE, BRAND, BURNETT, J. GUNDERSON, MELOY, VINCENT,
 6 RAMIREZ, COURTNEY, KESSLER, KENNERLY, GERKE, MANUEL, SCULLY,
 7 WILLIAMS, PALMER, HALVORSEN, O'CONNELL, ELLIS, O'KEEFE, DAY,
 8 FEDA, ERNST, RYAN, COX, WALDRON, KEYSER, DUSSAULT, PISTORIA,
 9 HUENNEKENS, FRATES, HARPER, BENGTSON, WOOD, BRADLEY, ROBBINS,
 10 LIEN, SOUTH, JENSEN, DRISCOLL, STOBIE, ELLISON, HAND, HANSEN,
 11 QUILICI, CONROY, FAGG, KANDUCH, BARDANOUVE, METCALF, MENAHAN,
 12

13 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND CERTAIN
 14 PROVISIONS OF THE UNIFORM ALCOHOLISM INTOXICATION ACT,
 15 ESTABLISHING A DIVISION OF ALCOHOL AND DRUG DEPENDENCY
 16 DEPENDENCE; INCREASING THE TAX ON ALCOHOLIC BEVERAGES TO
 17 CREATE FUNDING FOR AUTHORIZED PROGRAMS; ESTABLISHING CERTAIN
 18 REQUIREMENTS FOR PROGRAMS RECEIVING STATE FUNDING SUPPORT;
 19 AMENDING SECTIONS 4-1-401, 80-2702, 80-2703, 80-2709 THROUGH
 20 80-2720, AND 80-2722, R.C.M. 1947."

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 Section 1. Section 80-2702, R.C.M. 1947, is amended to
 24 read as follows:

25 "80-2702. Duties of department -- department

1 authorized to accept gifts -- enter into contracts --
 2 acquire and dispose of property. (1) The department of
 3 institutions, hereafter referred to as department in this
 4 chapter, shall:

5 (a) Plan, promote, and assist in the support of
 6 alcohol and drug dependence prevention, treatment, and
 7 control programs;

8 (b) Conduct, sponsor, and support research,
 9 investigations, and studies, including evaluation, of all
 10 phases of alcohol and drug dependence;

11 (c) Assist the development of educational and training
 12 programs relative to alcohol and drug dependence, and carry
 13 on programs to assist the public, and technical and
 14 professional groups, in becoming fully informed about
 15 alcohol and drug dependence;

16 (d) Promote, develop, and assist, financially and
 17 otherwise, alcohol and drug dependence programs administered
 18 by other state agencies, local government agencies, and
 19 private nonprofit organizations and agencies;

20 (e) Encourage and promote effective use of facilities,
 21 resources, and funds in the planning and conduct of programs
 22 and activities for prevention, treatment, and control of
 23 alcohol and drug dependence and, in this respect, cooperate
 24 with and utilize to the maximum possible extent the
 25 resources and services of federal, state, and local

1 agencies.

2 ~~(f) Establish a division of alcohol and drug~~
3 ~~dependence.~~

4 (2) To carry out this act, the department may:

5 (a) Accept gifts, grants, and donations of money and
6 property from public and private sources;

7 (b) Enter into contracts;

8 (c) Acquire and dispose of property."

9 Section 2. Section 80-2703, R.C.M. 1947, is amended to
10 read as follows:

11 "80-2703. Administration of federal program. The
12 ~~department of institutions~~ division of alcohol and drug
13 dependence is hereby designated the single state agency for
14 the administration of federal programs under:

15 (1) the Drug Abuse Office and Treatment Act of 1972,
16 Public Law 92-255 as amended, 21 U.S.C. section 1176; and

17 (2) the Comprehensive Alcohol Abuse and Alcoholism
18 Prevention, Treatment and Rehabilitation Act of 1970, Public
19 Law 91-616 as amended, 42 U.S.C. section 4573."

20 Section 3. Section 80-2709, R.C.M. 1947, is amended to
21 read as follows:

22 "80-2709. Definitions. For purposes of this act
23 chapter:

24 (1) "alcoholic" means a person who habitually lacks
25 self-control as to the use of alcoholic beverages, or uses

1 alcoholic beverages to the extent that his health is
2 substantially impaired or endangered or his social or
3 economic function is substantially disrupted;

4 (2) "approved private treatment facility" means a
5 private agency meeting the standards prescribed in section
6 ~~69-6216~~ 80-2713(1) and approved under section ~~69-6216~~
7 80-2713;

8 (3) "approved public treatment facility" means a
9 treatment agency operating under the direction and control
10 of the department or providing treatment under this act
11 ~~CHAPTER~~ through a contract with the department and approved
12 under section ~~69-6216~~ 80-2713;

13 (4) "department" means the department of institutions
14 provided for in section 82A-801, R.C.M. 1947;

15 ~~(5) "division" means the division of alcohol and drug~~
16 ~~dependence ESTABLISHED BY THE DEPARTMENT UNDER 80-2702;~~

17 ~~(6) "incapacitated by alcohol" means that a person,~~
18 ~~as a result of the use of alcohol, is unconscious or has his~~
19 ~~judgment otherwise so impaired that he is incapable of~~
20 ~~realizing and making a rational decision with respect to his~~
21 ~~need for treatment;~~

22 ~~(7) "incompetent person" means a person who has~~
23 ~~been adjudged incompetent by the district court;~~

24 ~~(8) "intoxicated person" means a person whose~~
25 ~~mental or physical functioning is substantially impaired as~~

1 a result of the use of alcohol;

2 ~~(9)(2)~~ "treatment" means the broad range of emergency,
3 outpatient, intermediate, and inpatient services and care,
4 including diagnostic evaluation, medical, psychiatric,
5 psychological, and social service care, vocational
6 rehabilitation and career counseling, which may be extended
7 to alcoholics, and intoxicated persons, and family members;

8 (10) "family member", is the spouse, mother, father,
9 child, or member of the household of an alcoholic whose life
10 has been affected by the actions of the alcoholic and may
11 require treatment;

12 (11) "prevention" has meaning on four levels; these
13 are:

14 (a) education to provide information to the school
15 children and general public relating to alcohol dependence
16 and alcoholism, treatment, and rehabilitative services and
17 to reduce the consequences of life experiences acquired by
18 contact with an alcoholic;

19 (b) early detection and recovery from the illness
20 before lasting emotional or physical damage, or both, have
21 occurred;

22 (c) if lasting emotional or physical damage, or both,
23 have occurred, to arrest the illness before full disability
24 has been reached;

25 (d) the provision of facility requirements to meet

1 division program standards and improve public accessibility
2 for services."

3 Section 4. Section 80-2710, R.C.M. 1947, is amended to
4 read as follows:

5 "80-2710. Powers of department division. The
6 department division of alcohol and drug dependence may:

7 (1) plan, establish, and maintain treatment programs as
8 necessary or desirable;

9 (2) coordinate its activities and cooperate with
10 alcoholism programs in this and other states, and make
11 contracts and other joint or cooperative arrangements with
12 state, local, or private agencies in this and other states
13 for the treatment of alcoholics and intoxicated persons and
14 for the common advancement of alcoholism programs;

15 (3) do other acts and things necessary or convenient to
16 execute the authority expressly granted to it; and

17 (4) provide treatment facilities for alcoholics, and
18 intoxicated persons, and family members."

19 Section 5. Section 80-2711, R.C.M. 1947, is amended to
20 read as follows:

21 "80-2711. Duties of department division. The
22 department division shall:

23 (1) develop, encourage, and foster statewide, regional,
24 and local plans and programs for the prevention of
25 alcoholism and treatment of alcoholics and intoxicated

1 persons in cooperation with public and private agencies,
 2 organizations, and individuals and provide technical
 3 assistance and consultation services for these purposes;

4 (2) coordinate the efforts and enlist the assistance of
 5 all public and private agencies, organizations, and
 6 individuals interested in prevention of alcoholism and
 7 treatment of alcoholics and intoxicated persons;

8 (3) cooperate with the ~~department of institutions~~ and
 9 board of pardons in establishing and conducting programs to
 10 provide treatment for alcoholics and intoxicated persons in
 11 or on parole from penal institutions;

12 (4) cooperate with the department of education, the
 13 superintendent of public instruction, schools, police
 14 departments, courts, and other public and private agencies,
 15 organizations and individuals in establishing programs for
 16 the prevention of alcoholism and treatment of alcoholics and
 17 intoxicated persons, and preparing curriculum materials
 18 thereon for use at all levels of education;

19 (5) prepare, publish, evaluate, and disseminate
 20 educational material dealing with the nature and effects of
 21 alcohol;

22 (6) develop and implement, as an integral part of
 23 treatment programs, an educational program for use in the
 24 treatment of alcoholics and intoxicated persons, which
 25 program shall include the dissemination of information

1 concerning the nature and effects of alcohol;

2 (7) organize and foster training programs for all
 3 persons engaged in treatment of alcoholics and intoxicated
 4 persons;

5 (8) sponsor and encourage research into the causes and
 6 nature of alcoholism and treatment of alcoholics and
 7 intoxicated persons, and serve as a clearing house for
 8 information relating to alcoholism;

9 (9) specify uniform methods for keeping statistical
 10 information by public and private agencies, organizations,
 11 and individuals, and collect and make available relevant
 12 statistical information, including number of persons
 13 treated, frequency of admission and readmission, and
 14 frequency and duration of treatment;

15 (10) advise the governor in the preparation of a
 16 comprehensive plan for treatment of alcoholics and
 17 intoxicated persons for inclusion in the state's
 18 comprehensive health plan;

19 (11) review all state health, welfare, and treatment
 20 plans to be submitted for federal funding under federal
 21 legislation, and advise the governor on provisions to be
 22 included relating to alcoholism and intoxicated persons;

23 (12) assist in the development of, and cooperate with,
 24 alcohol education and treatment programs for employees of
 25 state and local governments and businesses and industries in

1 the state;

2 (13) utilize the support and assistance of interested

3 persons in the community, particularly recovered alcoholics,

4 to encourage alcoholics voluntarily to undergo treatment;

5 (14) cooperate with the department of justice in

6 establishing and conducting programs designed to deal with

7 the problem of persons operating motor vehicles while

8 intoxicated;

9 (15) encourage general hospitals and other appropriate

10 health facilities to admit without discrimination alcoholics

11 and intoxicated persons and to provide them with adequate

12 and appropriate treatment;

13 (16) encourage all health and disability insurance

14 programs to include alcoholism as a covered illness; and

15 (17) submit to the governor an annual report covering

16 the activities of the department division."

17 Section 6. Section 80-2712, R.C.M. 1947, is amended to

18 read as follows:

19 "80-2712. Comprehensive program for treatment. (1) The

20 department division shall establish a comprehensive and

21 coordinated program for the treatment of alcoholics, and

22 intoxicated persons, and family members.

23 (2) The program shall include:

24 (a) emergency treatment provided by a facility

25 affiliated with or part of the medical service of a general

1 hospital;

2 (b) inpatient treatment;

3 (c) intermediate treatment; and

4 (d) outpatient and followup treatment.

5 (3) The department division shall provide for adequate

6 and appropriate treatment for alcoholics and intoxicated

7 persons admitted under sections ~~69-6218 to 69-6221~~ 80-2712

8 through 80-2718. Treatment may not be provided at a

9 correctional institution except for inmates.

10 (4) All appropriate public and private resources shall

11 be coordinated with and utilized in the program if possible.

12 (5) The department division shall prepare, publish, and

13 distribute annually a list of all approved public and

14 private treatment facilities."

15 Section 7. Section 80-2713, R.C.M. 1947, is amended to

16 read as follows:

17 "80-2713. Facility standards -- inspections --

18 approvals. (1) The department division shall establish

19 standards for approved treatment facilities that must be met

20 for a treatment facility to be approved as a public or

21 private treatment facility, and fix the fees to be charged

22 for the required inspections. The standards may concern only

23 the health standards to be met and standards of treatment to

24 be afforded patients.

25 (2) The department division periodically shall inspect

1 approved public and private treatment facilities at
2 reasonable times and in a reasonable manner.

3 (3) The ~~department~~ division shall maintain a list of
4 approved public and private treatment facilities.

5 (4) Each approved public and private treatment facility
6 shall file with the ~~department~~ division on request, data,
7 statistics, schedules, and information the ~~department~~
8 division reasonably requires. An approved public or private
9 treatment facility that without good cause fails to furnish
10 any data, statistics, schedules, or information as
11 requested, or files fraudulent returns thereof, shall be
12 removed from the list of approved treatment facilities.

13 (5) The ~~department~~ division, after holding a hearing in
14 accordance with the Administrative Procedure Act, may
15 suspend, revoke, limit, or restrict an approval, or refuse
16 to grant an approval, for failure to meet its standards.

17 (6) A district court may restrain any violation of this
18 section, review any denial, restriction, or revocation of
19 approval, and grant other relief required to enforce its
20 provisions.

21 (7) Upon petition of the ~~department~~ division and after
22 a hearing held upon reasonable notice to the facility, a
23 district court may issue a warrant to the ~~department~~
24 division authorizing it to enter and inspect at reasonable
25 times, and examine the books and accounts of, any approved

1 public or private treatment facility refusing to consent to
2 inspection or examination by the ~~department~~ division or
3 which the ~~department~~ division has reasonable cause to
4 believe is operating in violation of this act."

5 Section 8. Section 80-2714, R.C.M. 1947, is amended to
6 read as follows:

7 "80-2714. Acceptance for treatment -- rules. The
8 ~~department~~ division shall adopt rules for acceptance of
9 persons into the treatment program, considering available
10 treatment resources and facilities, for the purpose of early
11 and effective treatment of alcoholics, ~~and~~ intoxicated
12 persons, ~~and~~ family members. In adopting the rules the
13 ~~department~~ division shall be guided by the following
14 standards:

15 (1) If possible a patient shall be treated on a
16 voluntary rather than an involuntary basis.

17 (2) A patient shall be initially assigned or
18 transferred to outpatient or intermediate treatment, unless
19 he is found to require inpatient treatment.

20 (3) A person shall not be denied treatment solely
21 because he has withdrawn from treatment against medical
22 advice on a prior occasion or because he has relapsed after
23 earlier treatment.

24 (4) An individualized treatment plan shall be prepared
25 and maintained on a current basis for each patient person.

1 (5) Provision shall be made for a continuum of
 2 coordinated treatment services, so that a person who leaves
 3 a facility or a form of treatment will have available and
 4 utilize other appropriate treatment."

5 Section 9. Section 80-2715, R.C.M. 1947, is amended to
 6 read as follows:

7 "80-2715. Voluntary treatment of alcoholics. (1) An
 8 alcoholic may apply for voluntary treatment directly to an
 9 approved public treatment facility. If the proposed patient
 10 is a minor or an incompetent person, he, a parent, a legal
 11 guardian, or other legal representative may make the
 12 application.

13 (2) Subject to rules adopted by the department
 14 ~~division~~, the administrator of an approved public treatment
 15 facility may determine who shall be admitted for treatment.
 16 If a person is refused admission to an approved public
 17 treatment facility, the administrator, subject to
 18 ~~department~~ ~~division~~ rules, shall refer the person to
 19 another approved public treatment facility for treatment if
 20 possible and appropriate.

21 (3) If a patient receiving inpatient care leaves an
 22 approved public treatment facility, he shall be encouraged
 23 to consent to appropriate outpatient or intermediate
 24 treatment. If it appears to the administrator of the
 25 treatment facility that the patient is an alcoholic who

1 requires help, the department ~~division~~ shall arrange for
 2 assistance in obtaining supportive services and residential
 3 facilities.

4 (4) If a patient leaves an approved public treatment
 5 facility, with or against the advice of the administrator of
 6 the facility, the department ~~division~~ shall make reasonable
 7 provisions for his transportation to another facility or to
 8 his home. If he has no home he shall be assisted in
 9 obtaining shelter. If he is a minor or an incompetent person
 10 the request for discharge from an inpatient facility shall
 11 be made by a parent, legal guardian, or other legal
 12 representative or by the minor or incompetent if he was the
 13 original applicant."

14 Section 10. Section 80-2716, R.C.M. 1947, is amended
 15 to read as follows:

16 "80-2716. Treatment and services for intoxicated
 17 persons and persons incapacitated by alcohol. (1) An
 18 intoxicated person may come voluntarily to an approved
 19 public treatment facility for emergency treatment. A person
 20 who appears to be intoxicated in a public place and to be in
 21 need of help, if he consents to the proffered help, may be
 22 assisted to his home, an approved public treatment facility,
 23 an approved private treatment facility, or other health
 24 facility by the police.

25 (2) A person who appears to be incapacitated by alcohol

1 shall be taken into protective custody by the police and
 2 forthwith brought to an approved public treatment facility
 3 for emergency treatment. If no approved public treatment
 4 facility is readily available he shall be taken to an
 5 emergency medical service customarily used for incapacitated
 6 persons. The police, in detaining the person and in taking
 7 him to an approved public treatment facility, is taking him
 8 into protective custody and shall make every reasonable
 9 effort to protect his health and safety. In taking the
 10 person into protective custody, the detaining officer may
 11 take reasonable steps to protect himself. No entry or other
 12 record may be made to indicate that the person taken into
 13 custody under this section has been arrested or charged with
 14 a crime.

15 (3) A person who comes voluntarily or is brought to an
 16 approved public treatment facility shall be examined by a
 17 licensed physician as soon as possible. He may then be
 18 admitted as a patient or referred to another health
 19 facility. The referring approved public treatment facility
 20 shall arrange for his transportation.

21 (4) A person who by medical examination is found to be
 22 incapacitated by alcohol at the time of his admission or to
 23 have become incapacitated at any time after his admission,
 24 may not be detained at the facility (1) once he is no longer
 25 incapacitated by alcohol, or (2) if he remains incapacitated

1 by alcohol for more than forty-eight (48) hours after
 2 admission as a patient, unless he is committed under section
 3 ~~69-6220~~ 80-2717. A person may consent to remain in the
 4 facility as long as the physician in charge believes
 5 appropriate.

6 (5) A person who is not admitted to an approved public
 7 treatment facility and is not referred to another health
 8 facility, may be taken to his home. If he has no home, the
 9 approved public treatment facility shall assist him in
 10 obtaining shelter.

11 (6) If a patient is admitted to an approved public
 12 treatment facility, his family or next of kin shall be
 13 notified as promptly as possible. If an adult patient who is
 14 not incapacitated requests that there be no notification,
 15 his request shall be respected."

16 Section 11. Section 80-2717, R.C.M. 1947, is amended
 17 to read as follows:

18 "80-2717. Emergency commitment. (1) An intoxicated
 19 person who (a) has threatened, attempted, or inflicted
 20 physical harm on another and is likely to inflict physical
 21 harm on another unless committed, or (b) is incapacitated by
 22 alcohol, may be committed to an approved public treatment
 23 facility for emergency treatment. A refusal to undergo
 24 treatment does not constitute evidence of lack of judgment
 25 as to the need for treatment.

1 (2) The certifying physician, spouse, guardian, or
 2 relative of the person to be committed, or any other
 3 responsible person, may make a written application for
 4 commitment under this section, directed to the administrator
 5 of the approved public treatment facility. The application
 6 shall state facts to support the need for emergency
 7 treatment and be accompanied by a physician's certificate
 8 stating that he has examined the person sought to be
 9 committed within two (2) days before the certificate's date
 10 and facts supporting the need for emergency treatment. A
 11 physician employed by the admitting facility or the
 12 department is not eligible to be the certifying physician.

13 (3) Upon approval of the application by the
 14 administrator of the approved public treatment facility, the
 15 person shall be brought to the facility by a peace officer,
 16 health officer, the applicant for commitment, the patient's
 17 spouse, the patient's guardian, or any other interested
 18 person. The person shall be retained at the facility to
 19 which he was admitted, or transferred to another appropriate
 20 public or private treatment facility, until discharged under
 21 subsection (5).

22 (4) The administrator of an approved public treatment
 23 facility shall refuse an application if in his opinion the
 24 application and certificate fail to sustain the grounds for
 25 commitment.

1 (5) When on the advice of the medical staff the
 2 administrator determines that the grounds for commitment no
 3 longer exist, he shall discharge a person committed under
 4 this section. No person committed under this section may be
 5 detained in any treatment facility for more than five (5)
 6 days. If a petition for involuntary commitment under section
 7 ~~69-6221~~ 80-2718 has been filed within the five (5) days and
 8 the administrator in charge of an approved public treatment
 9 facility finds that grounds for emergency commitment still
 10 exist, he may detain the person until the petition has been
 11 heard and determined, but no longer than ten (10) days after
 12 filing the petition.

13 (6) A copy of the written application for commitment
 14 and of the physician's certificate, and a written
 15 explanation of the person's right to counsel, shall be given
 16 to the person within twenty-four (24) hours after commitment
 17 by the ~~department~~ division, who shall provide a reasonable
 18 opportunity for the person to consult counsel."

19 Section 12. Section 80-2718, R.C.M. 1947, is amended
 20 to read as follows:

21 "80-2718. Involuntary commitment of alcoholics. (1) A
 22 person may be committed to the custody of the ~~department--of~~
 23 institutions division by the district court upon the
 24 petition of his spouse or guardian, a relative, the
 25 certifying physician, or the chief of any approved public

1 treatment facility. The petition shall allege that the
 2 person is an alcoholic who habitually lacks self-control as
 3 to the use of alcoholic beverages and that he (a) has
 4 threatened, attempted, or inflicted physical harm on another
 5 and that unless committed is likely to inflict physical harm
 6 on another; or (b) is incapacitated by alcohol. A refusal to
 7 undergo treatment does not constitute evidence of lack of
 8 judgment as to the need for treatment. The petition shall be
 9 accompanied by a certificate of a licensed physician who has
 10 examined the person within two (2) days before submission of
 11 the petition, unless the person whose commitment is sought
 12 has refused to submit to a medical examination, in which
 13 case the fact of refusal shall be alleged in the petition.
 14 The certificate shall set forth the physician's findings in
 15 support of the allegations of the petition. A physician
 16 employed by the admitting facility or the ~~department~~
 17 division is not eligible to be the certifying physician.

18 (2) Upon filing the petition, the court shall fix a
 19 date for a hearing no later than ten (10) days after the
 20 date the petition was filed. A copy of the petition and of
 21 the notice of the hearing, including the date fixed by the
 22 court, shall be served on the petitioner, the person whose
 23 commitment is sought, his next of kin other than the
 24 petitioner, a parent or his legal guardian if he is a minor,
 25 the administrator in charge of the approved public treatment

1 facility to which he has been committed for emergency care,
 2 and any other person the court believes advisable. A copy of
 3 the petition and certificate shall be delivered to each
 4 person notified.

5 (3) At the hearing the court shall hear all relevant
 6 testimony, including, if possible, the testimony of at least
 7 one licensed physician who has examined the person whose
 8 commitment is sought. The person shall have a right to have
 9 a licensed physician of his own choosing examine him and
 10 testify on his behalf, and if he has no funds with which to
 11 pay such physician, the reasonable costs of one such
 12 examination and testimony shall be paid by the county. The
 13 person shall be present unless the court believes that his
 14 presence is likely to be injurious to him; he shall be
 15 advised of his right to counsel and, if he is unable to hire
 16 his own counsel, the court shall appoint an attorney to
 17 represent him at the expense of the county. The court shall
 18 examine the person in open court, or if advisable, shall
 19 examine the person in chambers. If he refuses an examination
 20 by a licensed physician and there is sufficient evidence to
 21 believe that the allegations of the petition are true, or if
 22 the court believes that more medical evidence is necessary,
 23 the court may make a temporary order committing him to the
 24 ~~department-of-institutions~~ division for a period of not more
 25 than five (5) days for purposes of a diagnostic examination.

1 (4) If after hearing all relevant evidence, including
 2 the results of any diagnostic examination by the ~~department~~
 3 ~~of-institutions~~ division, the court finds that grounds for
 4 involuntary commitment have been established by clear and
 5 convincing evidence, it shall make an order of commitment to
 6 the ~~department-of-institutions~~ division. It may not order
 7 commitment of a person unless it determines that the
 8 ~~department-of--institutions~~ division is able to provide
 9 adequate and appropriate treatment for him and the treatment
 10 is likely to be beneficial.

11 (5) A person committed under this section shall remain
 12 in the custody of the ~~department-of--institutions~~ division
 13 for treatment for a period of thirty (30) days unless sooner
 14 discharged. At the end of the thirty (30) day period, he
 15 shall be discharged automatically unless the ~~department--of~~
 16 ~~institutions~~ division before expiration of the period
 17 obtains a court order from the district court of the
 18 committing district for his recommitment upon the grounds
 19 set forth in subsection (1) for a further period of ninety
 20 (90) days unless sooner discharged. If a person has been
 21 committed because he is an alcoholic likely to inflict
 22 physical harm on another, the ~~department-of-institutions~~
 23 division shall apply for recommitment if after examination
 24 it is determined that the likelihood still exists.

25 (6) A person recommitment under subsection (5) who has

1 not been discharged by the ~~department-of-institutions~~
 2 division before the end of the ninety (90) day period shall
 3 be discharged at the expiration of that period unless the
 4 ~~department-of--institutions~~ division, before expiration of
 5 the period, obtains a court order from the district court of
 6 the committing district on the grounds set forth in
 7 subsection (1) for recommitment for a further period not to
 8 exceed ninety (90) days. If a person has been committed
 9 because he is an alcoholic likely to inflict physical harm
 10 on another, the ~~department~~ division shall apply for
 11 recommitment if after examination it is determined that the
 12 likelihood still exists. Only two (2) recommitment orders
 13 under subsections (5) and (6) are permitted.

14 (7) Upon the filing of a petition for recommitment
 15 under subsections (5) or (6), the court shall fix a date for
 16 hearing no later than ten (10) days after the date the
 17 petition was filed. A copy of the petition and of the notice
 18 of hearing, including the date fixed by the court, shall be
 19 served on the petitioner, the person whose commitment is
 20 sought, his next of kin other than the petitioner, the
 21 original petitioner under subsection (1) if different from
 22 the petitioner for recommitment, one of his parents or his
 23 legal guardian if he is a minor, and any other person the
 24 court believes advisable. At the hearing the court shall
 25 proceed as provided in subsection (3).

1 (8) A person committed to the custody of the department
2 ~~of institutions division~~ for treatment shall be discharged
3 at any time before the end of the period for which he has
4 been committed if either of the following conditions is met:

5 (a) in case of an alcoholic committed on the grounds of
6 likelihood of infliction of physical harm upon another, that
7 he is no longer in need of treatment or the likelihood no
8 longer exists; or

9 (b) in case of an alcoholic committed on the grounds of
10 the need of treatment and incapacity, that the incapacity no
11 longer exists, further treatment will not be likely to bring
12 about significant improvement in the person's condition, or
13 treatment is no longer adequate or appropriate.

14 (9) The court shall inform the person whose commitment
15 or recommitment is sought of his right to contest the
16 application, be represented by counsel at every stage of any
17 proceedings relating to his commitment and recommitment, and
18 have counsel appointed by the court or provided by the
19 court, if he wants the assistance of counsel and is unable
20 to obtain counsel. If the court believes that the person
21 needs the assistance of counsel, the court shall require, by
22 appointment if necessary, counsel for him regardless of his
23 wishes. The person whose commitment or recommitment is
24 sought shall be informed of his right to be examined by a
25 licensed physician of his choice. If the person is unable to

1 obtain a licensed physician and requests examination by a
2 physician, the court shall employ a licensed physician.

3 (10) If a private treatment facility agrees with the
4 request of a competent patient or his parent, sibling, adult
5 child, or guardian to accept the patient for treatment, the
6 ~~department of institutions division~~ may transfer him to the
7 private treatment facility.

8 (11) A person committed under this section may at any
9 time seek to be discharged from commitment by writ of habeas
10 corpus or other appropriate means.

11 (12) The venue for proceedings under this section is
12 the place in which person to be committed resides or is
13 present."

14 Section 13. Section 80-2719, R.C.M. 1947, is amended
15 to read as follows:

16 "80-2719. Records of alcoholics and intoxicated
17 persons. (1) The registration and other records of treatment
18 facilities shall remain confidential and are privileged to
19 the patient.

20 (2) Notwithstanding subsection (1), the ~~department~~
21 ~~division~~ may make available information from patients'
22 records for purposes of research into the causes and
23 treatment of alcoholism. Information under this subsection
24 shall not be published in a way that discloses patients'
25 names or other identifying information."

1 Section 14. Section 80-2720, R.C.M. 1947, is amended
2 to read as follows:

3 "80-2720. Visitation and communication of patients.
4 (1) Subject to reasonable rules regarding hours of
5 visitation which the department division may adopt, patients
6 in any approved treatment facility shall be granted
7 opportunities for adequate consultation with counsel, and
8 for continuing contact with family and friends consistent
9 with an effective treatment program.

10 (2) Neither mail nor other communication to or from a
11 patient in any approved treatment facility may be
12 intercepted, read, or censored. The administrator may adopt
13 reasonable rules regarding the use of telephone by patients
14 in approved treatment facilities."

15 Section 15. Section 80-2722, R.C.M. 1947, is amended
16 to read as follows:

17 "80-2722. ~~Departmental reports~~ Reports to legislature.
18 The department division shall achieve full implementation of
19 the provisions of the act, as set forth in this chapter and
20 related sections, no later than January 1, 1976. A progress
21 report on the implementation shall be made to the 1975
22 legislative session. Thereafter the department division
23 shall report, to each legislative session, on the status of
24 the implemented act. This report, or any part thereof, may
25 be included as the department's state plan for alcohol abuse

1 and alcoholism."

2 Section 16. There is a new R.C.M. section numbered
3 80-2725 that reads as follows:

4 80-2725. State-approved alcoholism programs utilizing
5 funding generated by taxation on alcoholic beverages.
6 ~~{1}--State-approved alcoholism programs utilizing funding~~
7 ~~for the treatment, rehabilitation, and prevention of~~
8 ~~alcoholism, as provided by the counties of Montana and the~~
9 ~~division, generated by taxation on alcoholic beverages shall~~
10 ~~not be required to provide matching funds. This section~~
11 ~~shall not preclude the acceptance by approved alcoholic~~
12 ~~programs in Montana of gifts, bequests, or the donation of~~
13 ~~services or money for the treatment, rehabilitation, or~~
14 ~~prevention of alcoholism.~~

15 ~~{2}--State-approved alcoholism programs using revenue~~
16 ~~generated by the taxation on alcoholic beverages may not~~
17 ~~refuse treatment, rehabilitation, or prevention of~~
18 ~~alcoholism services solely because of an individual's~~
19 ~~inability to pay.~~

20 ~~{3}--When revenue is generated by the payments of fees~~
21 ~~for services by state-approved alcoholism programs, such~~
22 ~~payments for services must be returned to:~~

23 ~~{a}--the county treasurer of a county in which funding~~
24 ~~has been provided from taxation on alcoholic beverages to~~
25 ~~the extent of funds allocated to the program by the county.~~

1 ~~(b) the state's general fund when funding has been~~
 2 ~~provided from taxation on alcoholic beverages to the extent~~
 3 ~~of such funding as allocated to the program by the division~~
 4 (1) REVENUE GENERATED BY 4-1-401 AND 4-1-404 FOR THE
 5 TREATMENT, REHABILITATION, AND PREVENTION OF ALCOHOLISM MAY
 6 BE DISTRIBUTED IN EITHER OF THE FOLLOWING MANNERS:
 7 (A) AS PAYMENT OF FEES FOR ALCOHOLISM SERVICES
 8 PROVIDED BY STATE-APPROVED ALCOHOLISM PROGRAMS, CERTIFIED
 9 ALCOHOLISM COUNSELORS, LICENSED PHYSICIANS, AND LICENSED
 10 HOSPITALS; AND
 11 (B) AS GRANTS TO PERSONS OPERATING STATE-APPROVED
 12 ALCOHOLISM PROGRAMS.
 13 (2) NO PERSON OPERATING A STATE-APPROVED ALCOHOLISM
 14 PROGRAM MAY BE REQUIRED TO PROVIDE MATCHING FUNDS AS A
 15 CONDITION OF RECEIVING A GRANT UNDER SUBSECTION (1) OF THIS
 16 SECTION.
 17 (3) IN ADDITION TO FUNDING RECEIVED UNDER THIS
 18 SECTION, A PERSON OPERATING A STATE-APPROVED ALCOHOLISM
 19 PROGRAM MAY ACCEPT GIFTS, REQUESTS, OR THE DONATION OF
 20 SERVICES OR MONEY FOR THE TREATMENT, REHABILITATION, OR
 21 PREVENTION OF ALCOHOLISM.
 22 (4) NO PERSON RECEIVING FUNDING UNDER THIS SECTION TO
 23 SUPPORT OPERATION OF A STATE-APPROVED ALCOHOLISM PROGRAM MAY
 24 REFUSE ALCOHOLISM TREATMENT, REHABILITATION, OR PREVENTION
 25 SERVICES TO A PERSON SOLELY BECAUSE OF THAT PERSON'S

1 INABILITY TO PAY FOR THOSE SERVICES.
 2 (5) A GRANT MADE UNDER THIS SECTION IS SUBJECT TO THE
 3 FOLLOWING CONDITIONS:
 4 (A) THE GRANT APPLICATION MUST CONTAIN AN ESTIMATE OF
 5 ALL PROGRAM INCOME INCLUDING INCOME FROM EARNED FEES, GIFTS,
 6 REQUESTS, DONATIONS, AND GRANTS FROM OTHER THAN STATE
 7 SOURCES DURING THE PERIOD FOR WHICH GRANT SUPPORT IS SOUGHT.
 8 (B) WHENEVER, DURING THE PERIOD OF GRANT SUPPORT,
 9 PROGRAM INCOME EXCEEDS THE AMOUNT ESTIMATED IN THE GRANT
 10 APPLICATION, THE AMOUNT OF THE EXCESS SHALL BE REPORTED TO
 11 THE GRANTEE.
 12 (C) THE EXCESS SHALL BE USED BY THE GRANTEE UNDER THE
 13 TERMS OF THE GRANT IN ACCORDANCE WITH ONE OR A COMBINATION
 14 OF THE FOLLOWING OPTIONS:
 15 (I) USE FOR ANY PURPOSE THAT FURTHERS THE OBJECTIVES
 16 OF THE LEGISLATION UNDER WHICH THE GRANT WAS MADE; OR
 17 (II) DEDUCT FROM TOTAL PROJECT COSTS TO DETERMINE THE
 18 NET COSTS ON WHICH THE GRANTEE'S SHARE OF THE COSTS IS
 19 BASED.
 20 ~~††(6) Revenue generated by 4-1-401 and 4-1-404 for~~
 21 ~~the treatment, rehabilitation, and prevention of alcoholism~~
 22 ~~which has not been encumbered for those purposes by the~~
 23 ~~counties of Montana and OR the division shall be returned to~~
 24 ~~the state's general fund within 30 days after the close of~~
 25 ~~each fiscal year.~~

1 Section 17. Section 4-1-401, R.C.M. 1947, is amended
2 to read as follows:

3 "4-1-401. License tax on liquor -- amount --
4 distribution of proceeds. The department of revenue is
5 hereby authorized and directed to charge, receive and
6 collect at the time of sale and delivery of any liquor under
7 any provisions of the laws of the state of Montana a license
8 tax of ~~five percent (5%)~~ 15% of the retail selling price on
9 all liquor so sold and delivered. Said tax shall be charged
10 and collected on all liquor brought into the state and taxed
11 by the department of revenue. The retail selling price
12 shall be computed by adding to the cost of said liquor the
13 state markup as designated by the department. Said ~~five~~
14 ~~percent (5%)~~ 15% license tax shall be figured in the same
15 manner as the state excise tax and shall be in addition to
16 said state excise tax. The department of revenue shall
17 retain the amount of such ~~five percent (5%)~~ 15% license tax
18 so received in a separate account. ~~Four-fifths (4/5)~~
19 ~~Two-thirds~~ of these revenues shall be distributed to the
20 counties according to the amount of liquor purchased in each
21 county. ~~One-fifth (1/5)~~ ~~One-third~~ of these revenues shall
22 be ~~deposited in the general fund~~ retained by the state.
23 Provided, however, in the case of purchases of liquor by a
24 retail liquor licensee for use in his business, the
25 department shall make such regulations as are necessary to

1 apportion that proportion of license tax so generated to the
2 county where the licensed establishment is located, for use
3 as provided in section 4-1-402, R.C.M. 1947. The department
4 of revenue shall pay quarterly to each county treasurer the
5 proportion of the license tax due each county.

6 The county treasurer of each county shall retain
7 ~~one-fourth (1/4)~~ seven-tenths of said license tax, and
8 shall, within ~~thirty (30)~~ days after receipt thereof,
9 apportion the remaining ~~three-fourths (3/4)~~ three-tenths
10 thereof to the treasurers of the incorporated cities and
11 towns within his county, said apportionment to be based in
12 each instance upon the proportion which the gross sale of
13 liquor in such incorporated city or town bears to the gross
14 sale of liquor in all of the incorporated cities and towns
15 in his said county.

16 Of the seven-tenths of the tax retained by the county,
17 the county treasurer shall deposit six-sevenths of this
18 amount in a fund within the county for the treatment,
19 rehabilitation, and prevention of alcoholism as approved by
20 the state of Montana. The remaining one-seventh of the funds
21 shall be retained in the county treasury for use by that
22 county.

23 The one-third of the license tax on liquor retained by
24 the state shall be deposited WITH THE STATE TREASURER
25 TO THE CREDIT OF the division of alcohol and drug dependency

1 DEPENDENCE each quarter for the treatment, rehabilitation
 2 and prevention of alcoholism as approved by the state."

3 Section 18. Section 4-1-404, R.C.M. 1947, is amended
 4 to read as follows:

5 "4-1-404. Tax on imported beer -- computation in case
 6 of barrels of capacity other than thirty-one gallons. A tax
 7 of three dollars (\$3) per barrel of thirty-one (31) gallons,
 8 is hereby levied and imposed on each and every barrel of
 9 beer manufactured out of this state and sold herein by any
 10 wholesaler, which said tax shall be due at the end of each
 11 month from said wholesaler, upon any such beer so sold by
 12 him during that month. As to any beer imported and sold in
 13 containers other than barrels, or in barrels of more or less
 14 capacity than thirty-one (31) gallons, the quantity content
 15 shall be ascertained and computed by the department of
 16 revenue in determining the amount of tax due, as herein
 17 provided for. An additional tax of ~~twenty-five cents--(\$0.25)~~
 18 \$1.75 per barrel is levied and imposed as provided by this
 19 section, and such additional tax is also to be levied and
 20 imposed at the same rate upon beer manufactured within the
 21 state. The additional tax of ~~twenty-five cents--(\$0.25)~~ \$1.75
 22 is to be deposited, notwithstanding sections 4-1-407 and
 23 4-1-408, or any other provision, ~~in the general fund~~ within
 24 WITH THE STATE TREASURER TO THE CREDIT OF the division of
 25 alcohol and drug dependency DEPENDENCE each quarter for the

1 treatment, rehabilitation, and prevention of alcoholism as
 2 approved by the state."

-End-

11. Amend page 12, section 8, line 8.

Following: line 7
Strike: "division"
Insert: "department"

12. Amend page 12, section 8, line 13.

Following: line 12
Strike: "division"
Insert: "department"

13. Amend page 13, section 9, line 5, through line 13 on page 14.

Following: line 4
Strike: section 9 in its entirety
Renumber: subsequent sections

14. Amend page 18, section 11, line 17.

Following: "by the"
Strike: "division"
Insert: "department"

15. Amend page 18, section 12, line 19 through line 1, page 26.

Following: line 18
Strike: sections 12 through 15 in their entirety
Renumber: subsequent sections

16. Amend page 29, section 17, line 8.

Following: "tax of"
Strike: "15"
Insert: "10"

17. Amend page 29, section 17, line 14.

Following: line 13
Strike: "15"
Insert: "10"

18. Amend page 29, section 17, line 17.

Following: "of such"
Strike: "15"
Insert: "10"

19. Amend page 30, section 17, line 25 and line 1, page 31.

Following: "CREDIT OF the"
Strike: "division of alcohol and drug DEPENDENCE"
Insert: "department of institutions"

20. Amend page 31, section 18, line 18.

Following: line 17
Strike: "\$1.75"
Insert: "\$1.00"

21. Amend page 31, section 18, line 21.

Following: "tax of"
Strike: "\$1.75"
Insert: "\$1.00"

22. Amend page 31, section 18, lines 24 and 25.

Following: "CREDIT OF the"
Strike: "division of alcohol and drug DEPENDENCE"
Insert: "department of institutions"

April 6, 1977

STANDING COMMITTEE REPORT
Senate Committee on Public Health, Welfare & Safety

That House Bill No. 627 be amended as follows:

1. Amend page 1, title, lines 14, 15 and 16.
Following: "ACT"
Strike: ", ESTABLISHING A DIVISION OF ALCOHOL AND DRUG DEPENDENCE"
2. Amend page 1, section 1, line 23 through line 19 on page 3.
Following: line 22
Strike: Sections 1 and 2 in their entirety
Re-number: subsequent sections
3. Amend page 4, section 3, lines 15 and 16.
Following: line 14
Strike: subsection (5) in its entirety
Re-number: subsequent subsections
4. Amend page 6, section 4, line 5.
Following: "powers of"
Strike: "division"
Insert: "department"
5. Amend page 6, section 4, line 6.
Following: line 5
Strike: "division of alcohol and drug dependence"
Insert: "department"
6. Amend page 6, section 5, line 19, through line 16 on page 9.
Following: line 18
Strike: section 5 in its entirety
Re-number: subsequent sections
7. Amend page 9, section 6, line 20.
Following: line 19
Strike: "division"
Insert: "department"
8. Amend page 10, section 6, line 5.
Following: "the"
Strike: "division"
Insert: "department"
9. Amend page 10, section 6, line 12.
Following: "The"
Strike: "division"
Insert: "department"
10. Amend page 10, section 7, line 15.
Following: line 14
Strike: Section 7 in its entirety
Re-number: subsequent sections

April 7, 1977

SENATE
COMMITTEE OF THE WHOLE

That House Bill No. 627 be amended as follows:

1. Amend title, lines 19 and 20.

Following: "4-1-401."

Strike: "80-2702, 80-2703,"

Insert: "4-1-404"

Following: "80-2709"

Strike: "through 80-2720, and 80-2722,"

Insert: ", 80-2710, 80-2712, 80-2714, 80-2716, 80-2717"

2. Amend page 30, section 17, line 7.

Following: "~~1/4~~"

Strike: "seven-tenths"

Insert: "50%"

3. Amend page 30, section 17, line 9.

Following: "~~3/4~~"

Strike: "three-tenths"

Insert: "50%"

4. Amend page 30, section 17, line 16.

Following: "of the"

Strike: "seven-tenths"

Insert: "50%"

April 7, 1977

SENATE
COMMITTEE OF THE WHOLE

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Strike: "80-2702, 80-2703,"

Insert: "4-1-404"

Following: "80-2709"

Strike: "through 80-2720, and 80-2722,"

Insert: ", 80-2710, 80-2712, 80-2714, 80-2716, 80-2717"

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Following: "~~1/4~~"

Strike: "seven-tenths"

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Strike: "three-tenths"

Insert: "50%"

4. Amend page 30, section 17, line 16.

Following: "of the"

Strike: "seven-tenths"

Insert: "50%"

HOUSE BILL NO. 627

INTRODUCED BY W. BAETH, FABREGA, ROTH, KROPP, MULAR, DAY, SHELDEN, STAIGHILLER, DASSINGER, BRAND, HIRSCH, CURTISS, FEDA, ESTENSON, ERNST, WALDRON, KEYSER, DUSSAULT, PISTORIA, McLANE, UHDE, ELLERD, BURNETT, J. GUNDERSON, MELDY, VINCENT, GILLIGAN, UNDERDAL, E. GUNDERSON, COURTNEY, HOLMES, R. BAETH, RAMIREZ, LUND, KESSLER, KENNERLY, GERKE, MANUEL, SCULLY, COX, WILLIAMS, PALMER, HALVORSON, O'CONNELL, ELLIS, O'KEEFE, RYAN, HUENNEKENS, FRATES, HARPER, BENGTON, WOOD, BRADLEY, ROBBINS, LIEN, SOUTH, JENSEN, DRISCOLL, STOBIE, ELLISON, HAND, HANSEN, QUILICI, CONROY, FAGG, KANDUCH, BARDANOUVE, METCALF, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND CERTAIN PROVISIONS OF THE UNIFORM ALCOHOLISM INTOXICATION ACT; ESTABLISHING A DIVISION OF ALCOHOL AND DRUG DEPENDENCY DEPENDENCY; INCREASING THE TAX ON ALCOHOLIC BEVERAGES TO CREATE FUNDING FOR AUTHORIZED PROGRAMS; ESTABLISHING CERTAIN REQUIREMENTS FOR PROGRAMS RECEIVING STATE FUNDING SUPPORT; AMENDING SECTIONS 4-1-401, 80-2702, 80-2703, 4-1-404, 80-2709 THROUGH 80-2720, AND 80-2722, 80-2710, 80-2712, 80-2714, 80-2716, AND 80-2717, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1, Section 80-2702, R.C.M. 1947, is amended to read as follows:

REFERENCE BILL

~~80-2702. Duties of department department authorized to accept gifts enter into contracts acquire and dispose of property. (1) The department of institutions hereafter referred to as department in this chapter shall:~~

~~(a) Plan, promote, and assist in the support of alcohol and drug dependence prevention, treatment, and control programs;~~

~~(b) Conduct, sponsor, and support research, investigations, and studies, including evaluation, of all phases of alcohol and drug dependence;~~

~~(c) Assist the development of educational and training programs relative to alcohol and drug dependence and carry on programs to assist the public and technical and professional groups in becoming fully informed about alcohol and drug dependence;~~

~~(d) Promote, develop, and assist financially and otherwise alcohol and drug dependence programs administered by other state agencies, local government agencies, and private nonprofit organizations and agencies;~~

~~(e) Encourage and promote effective use of facilities, resources, and funds in the planning and conduct of programs and activities for prevention, treatment, and control of alcohol and drug dependence and, in this respect, cooperate with and utilize to the maximum possible extent the~~

1 resources--and--services--of--federal--state--and--local
2 agencies;

3 ~~{f}--Establish--a--division--of--alcohol--and--drug
4 dependence;~~

5 ~~{2}--To--carry--out--this--act--the--department--may+~~

6 ~~{a)--Accept--gifts--grants--and--donations--of--money--and
7 property--from--public--and--private--sources+~~

8 ~~{b)--Enter--into--contracts+~~

9 ~~{c)--Acquire--and--dispose--of--property+ "~~

10 Section 2. Section 80-2703, R.C.M. 1947, is amended to
11 read as follows:

12 "80-2703. Administration of federal programs. The
13 department of institutions ~~division of alcohol and drug
14 dependence~~ is hereby designated the single state agency for
15 the administration of federal programs under:

16 ~~{1)--the--Drug--Abuse--Office--and--Treatment--Act--of--1972,
17 Public--Law--92--255--as--amended--21--U.S.C. section 1176; and~~

18 ~~{2)--the--Comprehensive--Alcohol--Abuse--and--Alcoholism
19 Prevention--Treatment--and--Rehabilitation--Act--of--1970, Public
20 Law--91--616--as--amended--42--U.S.C. section 4573+ "~~

21 Section 1. Section 80-2709, R.C.M. 1947, is amended to
22 read as follows:

23 "80-2709. Definitions. For purposes of this act
24 chapter:

25 {1} "alcoholic" means a person who habitually lacks

1 self-control as to the use of alcoholic beverages, or uses
2 alcoholic beverages to the extent that his health is
3 substantially impaired or endangered or his social or
4 economic function is substantially disrupted;

5 {2} "approved private treatment facility" means a
6 private agency meeting the standards prescribed in section
7 69-6216 ~~80-2713(1)~~ and approved under section 69-6216
8 ~~80-2713;~~

9 {3} "approved public treatment facility" means a
10 treatment agency operating under the direction and control
11 of the department or providing treatment under this act
12 CHAPTER through a contract with the department and approved
13 under section 69-6216 ~~80-2713;~~

14 {4} "department" means the department of institutions
15 provided for in section 82A-801, R.C.M. 1947;

16 ~~{5)--"division"--means--the--division--of--alcohol--and--drug
17 dependence ESTABLISHED BY THE DEPARTMENT UNDER 80-2702+~~

18 ~~{5}{6}{5}~~ "incapacitated by alcohol" means that a
19 person, as a result of the use of alcohol, is unconscious or
20 has his judgment otherwise so impaired that he is incapable
21 of realizing and making a rational decision with respect to
22 his need for treatment;

23 ~~{6}{7}{6}~~ "incompetent person" means a person who has
24 been adjudged incompetent by the district court;

25 ~~{7}{8}{7}~~ "intoxicated person" means a person whose

1 mental or physical functioning is substantially impaired as
2 a result of the use of alcohol;

3 ~~(9)(2)(8)~~ "treatment" means the broad range of
4 emergency, outpatient, intermediate, and inpatient services
5 and care, including diagnostic evaluation, medical,
6 psychiatric, psychological, and social service care,
7 vocational rehabilitation and career counseling, which may
8 be extended to alcoholics, and intoxicated persons, and
9 family members;

10 ~~(9)(2)~~ "family member" is the spouse, or
11 father, child, or member of the household of an alcoholic
12 whose life has been affected by the actions of the alcoholic
13 and may require treatment;

14 ~~(10)~~ "prevention" has meaning on four levels; these
15 are:

16 (a) education to provide information to the school
17 children and general public relating to alcohol dependence
18 and alcoholism, treatment, and rehabilitative services, and
19 to reduce the consequences of life experiences acquired by
20 contact with an alcoholic;

21 (b) early detection and recovery from the illness
22 before lasting emotional or physical damage, or both, have
23 occurred;

24 (c) if lasting emotional or physical damage, or both,
25 have occurred, to arrest the illness before full disability

1 has been reached;

2 (d) the provision of facility requirements to meet
3 division program standards and improve public accessibility
4 for services."

5 Section 2. Section 80-2710, R.C.M. 1947, is amended to
6 read as follows:

7 "80-2710. Powers of department ~~division~~ DEPARTMENT.
8 The department ~~division of alcohol and drug dependence~~
9 DEPARTMENT may:

10 (1) plan, establish, and maintain treatment programs as
11 necessary or desirable;

12 (2) coordinate its activities and cooperate with
13 alcoholism programs in this and other states, and make
14 contracts and other joint or cooperative arrangements with
15 state, local, or private agencies in this and other states
16 for the treatment of alcoholics and intoxicated persons and
17 for the common advancement of alcoholism programs;

18 (3) do other acts and things necessary or convenient to
19 execute the authority expressly granted to it; and

20 (4) provide treatment facilities for alcoholics, and
21 intoxicated persons, and family members."

22 Section 5. ~~Section 80-2711, R.C.M. 1947, is amended to~~
23 ~~read as follows:~~

24 "80-2711. ~~Duties of department division.~~ The
25 department ~~division shall:~~

1 (1) develop, encourage and foster statewide regional
 2 and local plans and programs for the prevention of
 3 alcoholism and treatment of alcoholics and intoxicated
 4 persons in cooperation with public and private agencies
 5 organizations and individuals and provide technical
 6 assistance and consultation services for these purposes
 7 (2) coordinate the efforts and enlist the assistance of
 8 all public and private agencies organizations and
 9 individuals interested in prevention of alcoholism and
 10 treatment of alcoholics and intoxicated persons
 11 (3) cooperate with the department of institutions and
 12 board of pardons in establishing and conducting programs to
 13 provide treatment for alcoholics and intoxicated persons in
 14 or on parole from penal institutions
 15 (4) cooperate with the department of education the
 16 superintendent of public instruction schools police
 17 departments courts and other public and private agencies
 18 organizations and individuals in establishing programs for
 19 the prevention of alcoholism and treatment of alcoholics and
 20 intoxicated persons and preparing curriculum materials
 21 thereon for use at all levels of education
 22 (5) prepare publish evaluate and disseminate
 23 educational material dealing with the nature and effects of
 24 alcohol
 25 (6) develop and implement as an integral part of

1 treatment programs an educational program for use in the
 2 treatment of alcoholics and intoxicated persons which
 3 program shall include the dissemination of information
 4 concerning the nature and effects of alcohol
 5 (7) organize and foster training programs for all
 6 persons engaged in treatment of alcoholics and intoxicated
 7 persons
 8 (8) sponsor and encourage research into the causes and
 9 nature of alcoholism and treatment of alcoholics and
 10 intoxicated persons and serve as a clearing house for
 11 information relating to alcoholism
 12 (9) specify uniform methods for keeping statistical
 13 information by public and private agencies organizations
 14 and individuals and collect and make available relevant
 15 statistical information including number of persons
 16 treated frequency of admission and readmission and
 17 frequency and duration of treatment
 18 (10) advise the governor in the preparation of a
 19 comprehensive plan for treatment of alcoholics and
 20 intoxicated persons for inclusion in the state's
 21 comprehensive health plan
 22 (11) review all state health welfare and treatment
 23 plans to be submitted for federal funding under federal
 24 legislation and advise the governor on provisions to be
 25 included relating to alcoholism and intoxicated persons

~~{12} assist in the development of, and cooperate with alcohol education and treatment programs for employees of state and local governments and businesses and industries in the state;~~

~~{13} utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment;~~

~~{14} cooperate with the department of justice in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated;~~

~~{15} encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment;~~

~~{16} encourage all health and disability insurance programs to include alcoholism as a covered illness; and~~

~~{17} submit to the governor an annual report covering the activities of the department division."~~

Section 3. Section 80-2712, R.C.M. 1947, is amended to read as follows:

"80-2712. Comprehensive program for treatment. (1) The department division DEPARIMENTI shall establish a comprehensive and coordinated program for the treatment of alcoholics, and intoxicated persons, and family members.

(2) The program shall include:

(a) emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;

(b) inpatient treatment;

(c) intermediate treatment; and

(d) outpatient and followup treatment.

(3) The department division DEPARIMENTI shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under sections 69-6218 to 69-6221 80-2715 through 80-2718. Treatment may not be provided at a correctional institution except for inmates.

(4) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(5) The department division DEPARIMENTI shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities."

~~Section 7. Section 80-2713, R.C.M. 1947, is amended to read as follows:~~

~~"80-2713. Facility standards-----inspections-----approvals. (1) The department division shall establish standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged for the required inspections. The standards may concern only~~

1 the health standards to be met and standards of treatment to
2 be afforded patients.

3 (2) The department ~~division~~ periodically shall inspect
4 approved public and private treatment facilities at
5 reasonable times and in a reasonable manner.

6 (3) The department ~~division~~ shall maintain a list of
7 approved public and private treatment facilities.

8 (4) Each approved public and private treatment facility
9 shall file with the department ~~division~~ on request, data
10 statistics, schedules, and information the department
11 ~~division~~ reasonably requires. An approved public or private
12 treatment facility that without good cause fails to furnish
13 any data, statistics, schedules, or information as
14 requested, or files fraudulent returns thereof, shall be
15 removed from the list of approved treatment facilities.

16 (5) The department ~~division~~ after holding a hearing in
17 accordance with the Administrative Procedure Act, may
18 suspend, revoke, limit, or restrict an approval, or refuse
19 to grant an approval, for failure to meet its standards.

20 (6) A district court may restrain any violation of this
21 section, review any denial, restriction, or revocation of
22 approval, and grant other relief required to enforce its
23 provisions.

24 (7) Upon petition of the department ~~division~~ and after
25 a hearing held upon reasonable notice to the facility, a

1 district court may issue a warrant to the department
2 ~~division~~ authorizing it to enter and inspect at reasonable
3 times and examine the books and accounts of any approved
4 public or private treatment facility refusing to consent to
5 inspection or examination by the department ~~division~~ or
6 which the department ~~division~~ has reasonable cause to
7 believe is operating in violation of this act.

8 Section 4. Section 80-2714, R.C.M. 1947, is amended to
9 read as follows:

10 "80-2714. Acceptance for treatment -- rules. The
11 department ~~division~~ DEPARTMENT shall adopt rules for
12 acceptance of persons into the treatment program,
13 considering available treatment resources and facilities,
14 for the purpose of early and effective treatment of
15 alcoholics, and intoxicated persons, and family members. In
16 adopting the rules the department ~~division~~ DEPARTMENT shall
17 be guided by the following standards:

18 (1) If possible a patient shall be treated on a
19 voluntary rather than an involuntary basis.

20 (2) A patient shall be initially assigned or
21 transferred to outpatient or intermediate treatment, unless
22 he is found to require inpatient treatment.

23 (3) A person shall not be denied treatment solely
24 because he has withdrawn from treatment against medical
25 advice on a prior occasion or because he has relapsed after

1 earlier treatment.

2 (4) An individualized treatment plan shall be prepared
3 and maintained on a current basis for each patient ~~person~~.

4 (5) Provision shall be made for a continuum of
5 coordinated treatment services, so that a person who leaves
6 a facility or a form of treatment will have available and
7 utilize other appropriate treatment."

8 ~~Section 9. Section 80-2715, R.C.M. 1947, is amended to~~
9 ~~read as follows:~~

10 ~~"80-2715. Voluntary treatment of alcoholics. (1) An~~
11 ~~alcoholic may apply for voluntary treatment directly to an~~
12 ~~approved public treatment facility. If the proposed patient~~
13 ~~is a minor or an incompetent person, he, a parent, a legal~~
14 ~~guardian, or other legal representative may make the~~
15 ~~application.~~

16 ~~(2) Subject to rules adopted by the department~~
17 ~~division, the administrator of an approved public treatment~~
18 ~~facility may determine who shall be admitted for treatment.~~
19 ~~If a person is refused admission to an approved public~~
20 ~~treatment facility, the administrator, subject to~~
21 ~~departmental division rules, shall refer the person to~~
22 ~~another approved public treatment facility for treatment, if~~
23 ~~possible and appropriate.~~

24 ~~(3) If a patient receiving inpatient care leaves an~~
25 ~~approved public treatment facility, he shall be encouraged~~

1 ~~to consent to appropriate outpatient or intermediate~~
2 ~~treatment, if it appears to the administrator of the~~
3 ~~treatment facility that the patient is an alcoholic who~~
4 ~~requires help; the department division shall arrange for~~
5 ~~assistance in obtaining supportive services and residential~~
6 ~~facilities.~~

7 ~~(4) If a patient leaves an approved public treatment~~
8 ~~facility, with or against the advice of the administrator of~~
9 ~~the facility, the department division shall make reasonable~~
10 ~~provisions for his transportation to another facility or to~~
11 ~~his home; if he has no home, he shall be assisted in~~
12 ~~obtaining shelter. If he is a minor or an incompetent person,~~
13 ~~the request for discharge from an inpatient facility shall~~
14 ~~be made by a parent, legal guardian, or other legal~~
15 ~~representative or by the minor or incompetent if he was the~~
16 ~~original applicant."~~

17 Section 5. Section 80-2716, R.C.M. 1947, is amended to
18 read as follows:

19 "80-2716. Treatment and services for intoxicated
20 persons and persons incapacitated by alcohol. (1) An
21 intoxicated person may come voluntarily to an approved
22 public treatment facility for emergency treatment. A person
23 who appears to be intoxicated in a public place and to be in
24 need of help, if he consents to the proffered help, may be
25 assisted to his home, an approved public treatment facility,

1 an approved private treatment facility, or other health
2 facility by the police.

3 (2) A person who appears to be incapacitated by alcohol
4 shall be taken into protective custody by the police and
5 forthwith brought to an approved public treatment facility
6 for emergency treatment. If no approved public treatment
7 facility is readily available he shall be taken to an
8 emergency medical service customarily used for incapacitated
9 persons. The police, in detaining the person and in taking
10 him to an approved public treatment facility, is taking him
11 into protective custody and shall make every reasonable
12 effort to protect his health and safety. In taking the
13 person into protective custody, the detaining officer may
14 take reasonable steps to protect himself. No entry or other
15 record may be made to indicate that the person taken into
16 custody under this section has been arrested or charged with
17 a crime.

18 (3) A person who comes voluntarily or is brought to an
19 approved public treatment facility shall be examined by a
20 licensed physician as soon as possible. He may then be
21 admitted as a patient or referred to another health
22 facility. The referring approved public treatment facility
23 shall arrange for his transportation.

24 (4) A person who by medical examination is found to be
25 incapacitated by alcohol at the time of his admission or to

1 have become incapacitated at any time after his admission,
2 may not be detained at the facility (1) once he is no longer
3 incapacitated by alcohol, or (2) if he remains incapacitated
4 by alcohol for more than forty-eight (48) hours after
5 admission as a patient, unless he is committed under section
6 69-6220 ~~80-2717~~. A person may consent to remain in the
7 facility as long as the physician in charge believes
8 appropriate.

9 (5) A person who is not admitted to an approved public
10 treatment facility and is not referred to another health
11 facility, may be taken to his home. If he has no home, the
12 approved public treatment facility shall assist him in
13 obtaining shelter.

14 (6) If a patient is admitted to an approved public
15 treatment facility, his family or next of kin shall be
16 notified as promptly as possible. If an adult patient who is
17 not incapacitated requests that there be no notification,
18 his request shall be respected."

19 Section 6. Section 80-2717, R.C.M. 1947, is amended to
20 read as follows:

21 *80-2717. Emergency commitment. (1) An intoxicated
22 person who (a) has threatened, attempted, or inflicted
23 physical harm on another and is likely to inflict physical
24 harm on another unless committed, or (b) is incapacitated by
25 alcohol, may be committed to an approved public treatment

1 facility for emergency treatment. A refusal to undergo
2 treatment does not constitute evidence of lack of judgment
3 as to the need for treatment.

4 (2) The certifying physician, spouse, guardian, or
5 relative of the person to be committed, or any other
6 responsible person, may make a written application for
7 commitment under this section, directed to the administrator
8 of the approved public treatment facility. The application
9 shall state facts to support the need for emergency
10 treatment and be accompanied by a physician's certificate
11 stating that he has examined the person sought to be
12 committed within two (2) days before the certificate's date
13 and facts supporting the need for emergency treatment. A
14 physician employed by the admitting facility or the
15 department is not eligible to be the certifying physician.

16 (3) Upon approval of the application by the
17 administrator of the approved public treatment facility, the
18 person shall be brought to the facility by a peace officer,
19 health officer, the applicant for commitment, the patient's
20 spouse, the patient's guardian, or any other interested
21 person. The person shall be retained at the facility to
22 which he was admitted, or transferred to another appropriate
23 public or private treatment facility, until discharged under
24 subsection (5).

25 (4) The administrator of an approved public treatment

1 facility shall refuse an application if in his opinion the
2 application and certificate fail to sustain the grounds for
3 commitment.

4 (5) When on the advice of the medical staff the
5 administrator determines that the grounds for commitment no
6 longer exist, he shall discharge a person committed under
7 this section. No person committed under this section may be
8 detained in any treatment facility for more than five (5)
9 days. If a petition for involuntary commitment under section
10 ~~69-6221~~ 80-2718 has been filed within the five (5) days and
11 the administrator in charge of an approved public treatment
12 facility finds that grounds for emergency commitment still
13 exist, he may detain the person until the petition has been
14 heard and determined, but no longer than ten (10) days after
15 filing the petition.

16 (6) A copy of the written application for commitment
17 and of the physician's certificate, and a written
18 explanation of the person's right to counsel, shall be given
19 to the person within twenty-four (24) hours after commitment
20 by the department division DEPARTMENT, who shall provide a
21 reasonable opportunity for the person to consult counsel."

22 ~~Section 12v--Section 80-2718, R.E.M.-1947--is--amended~~
23 ~~to-read-as-follows:~~

24 ~~"80-2718--involuntary--commitment-of-alcoholics (1)--A~~
25 ~~person-may-be-committed-to-the-custody-of-the-department--of~~

1 institutions ~~division~~ by the district court upon the
 2 petition of his spouse or guardian, a relative, the
 3 certifying physician, or the chief of any approved public
 4 treatment facility. The petition shall allege that the
 5 person is an alcoholic who habitually lacks self-control as
 6 to the use of alcoholic beverages and that he (a) has
 7 threatened, attempted, or inflicted physical harm on another
 8 and that unless committed is likely to inflict physical harm
 9 on another; or (b) is incapacitated by alcohol. A refusal to
 10 undergo treatment does not constitute evidence of lack of
 11 judgment as to the need for treatment. The petition shall be
 12 accompanied by a certificate of a licensed physician who has
 13 examined the person within two (2) days before submission of
 14 the petition, unless the person whose commitment is sought
 15 has refused to submit to a medical examination, in which
 16 case the fact of refusal shall be alleged in the petition.
 17 The certificate shall set forth the physician's findings in
 18 support of the allegations of the petition. A physician
 19 employed by the admitting facility or the department
 20 ~~division~~ is not eligible to be the certifying physician.

21 (2) Upon filing the petition, the court shall fix a
 22 date for a hearing no later than ten (10) days after the
 23 date the petition was filed. A copy of the petition and of
 24 the notice of the hearing, including the date fixed by the
 25 court, shall be served on the petitioner, the person whose

1 commitment is sought, his next of kin other than the
 2 petitioner, a parent or his legal guardian if he is a minor,
 3 the administrator in charge of the approved public treatment
 4 facility to which he has been committed for emergency care,
 5 and any other person the court believes advisable. A copy of
 6 the petition and certificate shall be delivered to each
 7 person notified.

8 (3) At the hearing the court shall hear all relevant
 9 testimony, including, if possible, the testimony of at least
 10 one licensed physician who has examined the person whose
 11 commitment is sought. The person shall have a right to have
 12 a licensed physician of his own choosing examine him and
 13 testify on his behalf, and if he has no funds with which to
 14 pay such physician, the reasonable costs of one such
 15 examination and testimony shall be paid by the county. The
 16 person shall be present unless the court believes that his
 17 presence is likely to be injurious to him; he shall be
 18 advised of his right to counsel and, if he is unable to hire
 19 his own counsel, the court shall appoint an attorney to
 20 represent him at the expense of the county. The court shall
 21 examine the person in open court, or, if advisable, shall
 22 examine the person in chambers. If he refuses an examination
 23 by a licensed physician and there is sufficient evidence to
 24 believe that the allegations of the petition are true, or if
 25 the court believes that more medical evidence is necessary,

1 the court may make a temporary order committing him to the
 2 department of institutions division for a period of not more
 3 than five (5) days for purposes of a diagnostic examination
 4 (4) if after hearing all relevant evidence including
 5 the results of any diagnostic examination by the department
 6 of institutions division the court finds that grounds for
 7 involuntary commitment have been established by clear and
 8 convincing evidence it shall make an order of commitment to
 9 the department of institutions division it may not order
 10 commitment of a person unless it determines that the
 11 department of institutions division is able to provide
 12 adequate and appropriate treatment for him and the treatment
 13 is likely to be beneficial
 14 (5) A person committed under this section shall remain
 15 in the custody of the department of institutions division
 16 for treatment for a period of thirty (30) days unless sooner
 17 discharged. At the end of the thirty (30) day period he
 18 shall be discharged automatically unless the department of
 19 institutions division before expiration of the period
 20 obtains a court order from the district court of the
 21 committing district for his commitment upon the grounds
 22 set forth in subsection (1) for a further period of ninety
 23 (90) days unless sooner discharged. If a person has been
 24 committed because he is an alcoholic likely to inflict
 25 physical harm on another the department of institutions

1 division shall apply for recommitment if after examination
 2 it is determined that the likelihood still exists
 3 (6) A person recommitment under subsection (5) who has
 4 not been discharged by the department of institutions
 5 division before the end of the ninety (90) day period shall
 6 be discharged at the expiration of that period unless the
 7 department of institutions division before expiration of
 8 the period obtains a court order from the district court of
 9 the committing district on the grounds set forth in
 10 subsection (1) for recommitment for a further period not to
 11 exceed ninety (90) days if a person has been committed
 12 because he is an alcoholic likely to inflict physical harm
 13 on another the department division shall apply for
 14 recommitment if after examination it is determined that the
 15 likelihood still exists only two (2) recommitment orders
 16 under subsections (5) and (6) are permitted
 17 (7) Upon the filing of a petition for recommitment
 18 under subsections (5) or (6) the court shall fix a date for
 19 hearing no later than ten (10) days after the date the
 20 petition was filed. A copy of the petition and of the notice
 21 of hearing including the date fixed by the court shall be
 22 served on the petitioner the person whose commitment is
 23 sought his next of kin other than the petitioner the
 24 original petitioner under subsection (1) if different from
 25 the petitioner for recommitment one of his parents or his

1 ~~request guardian if he is a minor and any other person the~~
2 ~~court believes advisable. At the hearing the court shall~~
3 ~~proceed as provided in subsection (3).~~
4 ~~(f) A person committed to the custody of the department~~
5 ~~of institutions division for treatment shall be discharged~~
6 ~~at any time before the end of the period for which he has~~
7 ~~been committed if either of the following conditions is met~~
8 ~~(1) in case of an alcoholic committed on the grounds of~~
9 ~~likelihood of infliction of physical harm upon another that~~
10 ~~he is no longer in need of treatment or the likelihood no~~
11 ~~longer exists; or~~
12 ~~(b) in case of an alcoholic committed on the grounds of~~
13 ~~the need of treatment and incapacity that the incapacity no~~
14 ~~longer exists; further treatment will not be likely to bring~~
15 ~~about significant improvement in the person's condition; or~~
16 ~~treatment is no longer adequate or appropriate.~~
17 ~~(g) The court shall inform the person whose commitment~~
18 ~~or commitment is sought of his right to contest the~~
19 ~~application be represented by counsel at every stage of any~~
20 ~~proceedings relating to his commitment and commitment and~~
21 ~~have counsel appointed by the court or provided by the~~
22 ~~court if he wants the assistance of counsel and is unable~~
23 ~~to obtain counsel; if the court believes that the person~~
24 ~~needs the assistance of counsel the court shall require by~~
25 ~~appointment if necessary counsel for him regardless of his~~

1 ~~wishes the person whose commitment or commitment is~~
2 ~~sought shall be informed of his right to be examined by a~~
3 ~~licensed physician of his choice if the person is unable to~~
4 ~~obtain a licensed physician and requests examination by a~~
5 ~~physician the court shall employ a licensed physician~~
6 ~~(1) if a private treatment facility agrees with the~~
7 ~~request of a competent patient or his parent, sibling, adult~~
8 ~~child or guardian to accept the patient for treatment; the~~
9 ~~department of institutions division may transfer him to the~~
10 ~~private treatment facility;~~
11 ~~(ii) a person committed under this section may at any~~
12 ~~time seek to be discharged from commitment by writ of habeas~~
13 ~~corpus or other appropriate means;~~
14 ~~(2) the venue for proceedings under this section is~~
15 ~~the place in which person to be committed resides or is~~
16 ~~present;~~
17 ~~Section 13, Section 00-2719, RvSM, 1947 is amended~~
18 ~~to read as follows:~~
19 ~~"00-2719. Records of alcoholics and intoxicated~~
20 ~~persons (1) the registration and other records of treatment~~
21 ~~facilities shall remain confidential and are privileged to~~
22 ~~the patient;~~
23 ~~(2) Notwithstanding subsection (1) the department~~
24 ~~division may make available information from patients'~~
25 ~~records for purposes of research into the causes and~~

1 ~~treatment of alcoholism information under this subsection~~
 2 ~~shall not be published in a way that discloses patients'~~
 3 ~~names or other identifying information.~~"

4 Section 14, Section 80-2720, R.C.M. 1947, is amended
 5 to read as follows:

6 "80-2720. Visitation and communication of patients
 7 (1) Subject to reasonable rules regarding hours of
 8 visitation which the department ~~division~~ may adopt, patients
 9 in any approved treatment facility shall be granted
 10 opportunities for adequate consultation with counsel and
 11 for continuing contact with family and friends consistent
 12 with an effective treatment program.

13 (2) Neither mail nor other communication to or from a
 14 patient in any approved treatment facility may be
 15 intercepted, read, or censored. The administrator may adopt
 16 reasonable rules regarding the use of telephone by patients
 17 in approved treatment facilities."

18 Section 15, Section 80-2722, R.C.M. 1947, is amended
 19 to read as follows:

20 "80-2722. Departmental reports ~~Reports~~ to legislature.
 21 The department ~~division~~ shall achieve full implementation of
 22 the provisions of the act as set forth in this chapter and
 23 related sections no later than January 1, 1976. A progress
 24 report on the implementation shall be made to the 1975
 25 legislative session. Hereafter the department ~~division~~

1 shall report to each legislative session on the status of
 2 the implemented act. This report or any part thereof may
 3 be included as the department's state plan for alcohol abuse
 4 and alcoholism."

5 Section 7. There is a new R.C.M. section numbered
 6 80-2725 that reads as follows:

7 80-2725. State-approved alcoholism programs utilizing
 8 funding generated by taxation on alcoholic beverages.
 9 (1) State-approved alcoholism programs utilizing funding
 10 for the treatment, rehabilitation, and prevention of
 11 alcoholism, as provided by the counties of Montana and the
 12 division, generated by taxation on alcoholic beverages shall
 13 not be required to provide matching funds. This section
 14 shall not preclude the acceptance by approved alcoholic
 15 programs in Montana of gifts, bequests, or the donation of
 16 services or money for the treatment, rehabilitation, or
 17 prevention of alcoholism.

18 (2) State-approved alcoholism programs using revenue
 19 generated by the taxation on alcoholic beverages may not
 20 refuse treatment, rehabilitation, or prevention of
 21 alcoholism services solely because of an individual's
 22 inability to pay.

23 (3) When revenue is generated by the payments of fees
 24 for services by state-approved alcoholism programs, such
 25 payments for services must be returned to

1 ~~(a) the county treasurer of a county in which funding~~
 2 ~~has been provided from taxation on alcoholic beverages to~~
 3 ~~the extent of funds allocated to the program by the county.~~

4 ~~(b) the state's general fund when funding has been~~
 5 ~~provided from taxation on alcoholic beverages to the extent~~
 6 ~~of such funding as allocated to the program by the division.~~

7 (1) REVENUE GENERATED BY 4-1-401 AND 4-1-404 FOR THE
 8 TREATMENT, REHABILITATION, AND PREVENTION OF ALCOHOLISM MAY
 9 BE DISTRIBUTED IN EITHER OF THE FOLLOWING MANNERS:

10 (A) AS PAYMENT OF FEES FOR ALCOHOLISM SERVICES
 11 PROVIDED BY STATE-APPROVED ALCOHOLISM PROGRAMS, CERTIFIED
 12 ALCOHOLISM COUNSELORS, LICENSED PHYSICIANS, AND LICENSED
 13 HOSPITALS; AND

14 (B) AS GRANTS TO PERSONS OPERATING STATE-APPROVED
 15 ALCOHOLISM PROGRAMS.

16 (2) NO PERSON OPERATING A STATE-APPROVED ALCOHOLISM
 17 PROGRAM MAY BE REQUIRED TO PROVIDE MATCHING FUNDS AS A
 18 CONDITION OF RECEIVING A GRANT UNDER SUBSECTION (1) OF THIS
 19 SECTION.

20 (3) IN ADDITION TO FUNDING RECEIVED UNDER THIS
 21 SECTION, A PERSON OPERATING A STATE-APPROVED ALCOHOLISM
 22 PROGRAM MAY ACCEPT GIFTS, BEQUESTS, OR THE DONATION OF
 23 SERVICES OR MONEY FOR THE TREATMENT, REHABILITATION, OR
 24 PREVENTION OF ALCOHOLISM.

25 (4) NO PERSON RECEIVING FUNDING UNDER THIS SECTION TO

1 SUPPORT OPERATION OF A STATE-APPROVED ALCOHOLISM PROGRAM MAY
 2 REFUSE ALCOHOLISM TREATMENT, REHABILITATION, OR PREVENTION
 3 SERVICES TO A PERSON SOLELY BECAUSE OF THAT PERSON'S
 4 INABILITY TO PAY FOR THOSE SERVICES.

5 (5) A GRANT MADE UNDER THIS SECTION IS SUBJECT TO THE
 6 FOLLOWING CONDITIONS:

7 (A) THE GRANT APPLICATION MUST CONTAIN AN ESTIMATE OF
 8 ALL PROGRAM INCOME INCLUDING INCOME FROM EARNED FEES, GIFTS,
 9 BEQUESTS, DONATIONS, AND GRANTS FROM OTHER THAN STATE
 10 SOURCES DURING THE PERIOD FOR WHICH GRANT SUPPORT IS SOUGHT.

11 (B) WHENEVER, DURING THE PERIOD OF GRANT SUPPORT,
 12 PROGRAM INCOME EXCEEDS THE AMOUNT ESTIMATED IN THE GRANT
 13 APPLICATION, THE AMOUNT OF THE EXCESS SHALL BE REPORTED TO
 14 THE GRANTOR.

15 (C) THE EXCESS SHALL BE USED BY THE GRANTEE UNDER THE
 16 TERMS OF THE GRANT IN ACCORDANCE WITH ONE OR A COMBINATION
 17 OF THE FOLLOWING OPTIONS:

18 (I) USE FOR ANY PURPOSE THAT FURTHERS THE OBJECTIVES
 19 OF THE LEGISLATION UNDER WHICH THE GRANT WAS MADE; OR

20 (II) DEDUCT FROM TOTAL PROJECT COSTS TO DETERMINE THE
 21 NET COSTS ON WHICH THE GRANTOR'S SHARE OF THE COSTS IS
 22 BASED.

23 ~~††(6)~~ Revenue generated by 4-1-401 and 4-1-404 for
 24 the treatment, rehabilitation, and prevention of alcoholism
 25 which has not been encumbered for those purposes by the

1 counties of Montana ~~and OR~~ the division shall be returned to
 2 the state's general fund within 30 days after the close of
 3 each fiscal year.

4 Section 8. Section 4-1-401, R.C.M. 1947, is amended to
 5 read as follows:

6 "4-1-401. License tax on liquor -- amount --
 7 distribution of proceeds. The department of revenue is
 8 hereby authorized and directed to charge, receive and
 9 collect at the time of sale and delivery of any liquor under
 10 any provisions of the laws of the state of Montana a license
 11 tax of ~~five-percent-(5%)~~ ~~15%~~ 10% of the retail selling price
 12 on all liquor so sold and delivered. Said tax shall be
 13 charged and collected on all liquor brought into the state
 14 and taxed by the department of revenue. The retail selling
 15 price shall be computed by adding to the cost of said liquor
 16 the state markup as designated by the department. Said ~~five~~
 17 ~~percent-(5%)~~ ~~15%~~ 10% license tax shall be figured in the
 18 same manner as the state excise tax and shall be in addition
 19 to said state excise tax. The department of revenue shall
 20 retain the amount of such ~~five-percent-(5%)~~ ~~15%~~ 10% license
 21 tax so received in a separate account. ~~Four-fifths-(4/5)~~
 22 ~~Two-thirds~~ of these revenues shall be distributed to the
 23 counties according to the amount of liquor purchased in each
 24 county. ~~One-fifth-(1/5)~~ ~~One-third~~ of these revenues shall
 25 ~~be deposited in the general fund~~ retained by the state.

1 Provided, however, in the case of purchases of liquor by a
 2 retail liquor licensee for use in his business, the
 3 department shall make such regulations as are necessary to
 4 apportion that proportion of license tax so generated to the
 5 county where the licensed establishment is located, for use
 6 as provided in section 4-1-402, R.C.M. 1947. The department
 7 of revenue shall pay quarterly to each county treasurer the
 8 proportion of the license tax due each county.

9 The county treasurer of each county shall retain
 10 ~~one-fourth-(1/4)~~ ~~seven-tenths~~ 50% of said license tax, and
 11 shall, within ~~thirty-(30)~~ days after receipt thereof,
 12 apportion the remaining ~~three-fourths-(3/4)~~ ~~three-tenths~~ 50%
 13 thereof to the treasurers of the incorporated cities and
 14 towns within his county, said apportionment to be based in
 15 each instance upon the proportion which the gross sale of
 16 liquor in such incorporated city or town bears to the gross
 17 sale of liquor in all of the incorporated cities and towns
 18 in his said county.

19 Of the seven-tenths 50% of the tax retained by the
 20 county, the county treasurer shall deposit six-sevenths of
 21 this amount in a fund within the county for the treatment,
 22 rehabilitation, and prevention of alcoholism as approved by
 23 the state of Montana. The remaining one-seventh of the funds
 24 shall be retained in the county treasury for use by that
 25 county.

1 The one-third of the license tax on liquor retained by
 2 the state shall be deposited ~~within~~ WITH THE STATE TREASURER
 3 TO THE CREDIT OF the ~~division of alcohol and drug dependency~~
 4 ~~DEPENDENCE~~ DEPARTMENT OF INSTITUTIONS each quarter for the
 5 ~~treatment, rehabilitation and prevention of alcoholism as~~
 6 ~~approved by the state."~~

7 Section 9. Section 4-1-404, R.C.M. 1947, is amended to
 8 read as follows:

9 "4-1-404. Tax on imported beer -- computation in case
 10 of barrels of capacity other than thirty-one gallons. A tax
 11 of three dollars (\$3) per barrel of thirty-one (31) gallons,
 12 is hereby levied and imposed on each and every barrel of
 13 beer manufactured out of this state and sold herein by any
 14 wholesaler, which said tax shall be due at the end of each
 15 month from said wholesaler, upon any such beer so sold by
 16 him during that month. As to any beer imported and sold in
 17 containers other than barrels, or in barrels of more or less
 18 capacity than thirty-one (31) gallons, the quantity content
 19 shall be ascertained and computed by the department of
 20 revenue in determining the amount of tax due, as herein
 21 provided for. An additional tax of ~~twenty-five cents--(\$0.25)~~
 22 ~~\$1.75~~ \$1.00 per barrel is levied and imposed as provided by
 23 this section, and such additional tax is also to be levied
 24 and imposed at the same rate upon beer manufactured within
 25 the state. The additional tax of ~~twenty-five cents--(\$0.25)~~

1 ~~\$1.75~~ \$1.00 is to be deposited, notwithstanding sections
 2 4-1-407 and 4-1-408, or any other provision, ~~in the general~~
 3 fund ~~within~~ WITH THE STATE TREASURER TO THE CREDIT OF the
 4 ~~division of alcohol and drug dependency~~ ~~DEPENDENCE~~
 5 DEPARTMENT OF INSTITUTIONS each quarter for the ~~treatment,~~
 6 ~~rehabilitation, and prevention of alcoholism as approved by~~
 7 ~~the state."~~

-End-