

1 House BILL NO. 802  
 2 INTRODUCED BY Labor Committee

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PERSON  
 5 OPERATING A RESTAURANT OR BAR TO FILE A FINANCIAL STATEMENT  
 6 IN LIEU OF A BOND TO ASSURE PAYMENT OF EMPLOYEE WAGES AND  
 7 TAXES; AMENDING SECTIONS 41-2002, 41-2005, 41-2006, 41-2008,  
 8 AND 41-2010, R.C.M. 1947."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 41-2002, R.C.M. 1947, is amended to  
 12 read as follows:

13 "41-2002. Bond or statement required of lessee. From  
 14 and after the effective date of this act, it shall be  
 15 unlawful for any person to lease a premise to be used as the  
 16 place for conducting a restaurant, bar or tavern business,  
 17 without first having filed with the commissioner of labor  
 18 and industry a bond or statement in accordance with the  
 19 requirements of section 41-2005."

20 Section 2. Section 41-2005, R.C.M. 1947, is amended to  
 21 read as follows:

22 "41-2005. Bond or statement to be filed by lessee --  
 23 amount ~~ownership affidavit~~. Every person who leases from  
 24 another person premises for the purpose of conducting  
 25 therein a business as a restaurant, bar or tavern is hereby

1 required to file with the commissioner of labor and industry  
 2 either a bond equal to at least double the amount of the  
 3 projected semimonthly payroll ~~with the commissioner of labor~~  
 4 ~~and industry~~ or an annual financial statement verified by a  
 5 certified public accountant or licensed public accountant  
 6 stating that the net worth of the business is in excess of  
 7 \$15,000 in assets located in Montana. Upon such filing, the  
 8 commissioner shall issue a certificate stating that the  
 9 person has complied with this section and is entitled to  
 10 operate a restaurant, bar, or tavern."

11 Section 3. Section 41-2006, R.C.M. 1947, is amended to  
 12 read as follows:

13 "~~41-2006. Time of filing~~ Filing of bond or statement  
 14 ~~— terms of bond — maintenance of bond required.~~ The bond  
 15 ~~and affidavit or statement~~ required by section 41-2005 shall  
 16 be filed with the commissioner of labor and industry. ~~The~~ If  
 17 a bond is filed, the state of Montana shall be named as the  
 18 obligee therein with good and sufficient sureties to be  
 19 approved by the attorney general of the state of Montana.  
 20 ~~Said~~ The bond shall at all times be kept in full force and  
 21 effect and any cancellation or revocation thereof or  
 22 withdrawal of the sureties therefrom shall automatically  
 23 revoke and suspend the certificate issued to the lessee ~~of~~  
 24 under this act until such time as a new bond of like tenure  
 25 and effect shall have been filed and approved as herein

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1 provided or a financial statement is filed as provided in  
 2 41-2005. Such bond shall be conditioned to assure that in  
 3 any lease transaction of the type referred to in section  
 4 41-2002 the persons who perform labor or other personal  
 5 services for the lessee are guaranteed their wages in the  
 6 event the lessee ceases operation of the business, for any  
 7 reason, and is unable to pay the wages due and owing the  
 8 employees; and to assure payment due the employment security  
 9 division as a result of payroll taxes."

10 Section 4. Section 41-2008, R.C.M. 1947, is amended to  
 11 read as follows:

12 "41-2008. Lessee's business enjoined until bond or  
 13 statement filed. If any person engages in the restaurant,  
 14 bar or tavern business, as lessee, without having first  
 15 filed a bond or statement as required by section 5 [41-2005]  
 16 of this act, the attorney general of the state of Montana,  
 17 the commissioner of labor and industry of the state of  
 18 Montana, or any citizen, group of citizens or any  
 19 association in the county where the violator conducts his  
 20 business may institute an action to enjoin such person from  
 21 engaging in the business until compliance with this act has  
 22 been met."

23 Section 5. Section 41-2010, R.C.M. 1947, is amended to  
 24 read as follows:

25 "41-2010. New or additional bond — sureties. ~~The~~ When

1 filing of a bond is the method of complying with 41-2005,  
 2 the commissioner of labor and industry may require a new  
 3 bond or a bond of a greater amount than double the  
 4 semimonthly payroll ~~whenever~~ if at any time the commissioner  
 5 deems it necessary for the protection of the state of  
 6 Montana or the employees of a lessee. The commissioner may,  
 7 after due notice given, discharge the existing sureties from  
 8 further liability and require that other sureties be  
 9 provided."

-End-

Approved by Committee  
on Labor & Employment  
Relations

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11 Section 1. Section 41-2002, R.C.M. 1947, is amended to  
12 read as follows:

13 "41-2002. Bond or statement required of lessee. From  
14 and after the effective date of this act, it shall be  
15 unlawful for any person to lease a premise to be used as the  
16 place for conducting a restaurant, bar or tavern business,  
17 without first having filed with the commissioner of labor  
18 and industry a bond or statement in accordance with the  
19 requirements of section 41-2005."

20 Section 2. Section 41-2005, R.C.M. 1947, is amended to  
21 read as follows:

22 "41-2005. Bond or statement to be filed by lessee --  
23 amount ~~ownership affidavit~~. Every person who leases from  
24 another person premises for the purpose of conducting  
25 therein a business as a restaurant, bar or tavern is hereby

1 required to file with the commissioner of labor and industry  
2 either a bond equal to at least double the amount of the  
3 projected semimonthly payroll ~~with the commissioner of labor~~  
4 ~~and industry~~ or an annual financial statement verified by a  
5 certified public accountant or licensed public accountant  
6 stating that the net worth of the business is in excess of  
7 \$15,000 in assets located in Montana. Upon such filing, the  
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11 Section 3. Section 41-2006, R.C.M. 1947, is amended to  
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13 "~~41-2006. Time of filing~~ Filing of bond or statement  
14 ~~— terms of bond — maintenance of bond required.~~ The bond  
15 ~~and affidavit or statement~~ required by section 41-2005 shall  
16 be filed with the commissioner of labor and industry. ~~The If~~  
17 a bond is filed, the state of Montana shall be named as the  
18 obligee therein with good and sufficient sureties to be  
19 approved by the attorney general of the state of Montana.  
20 ~~Said the~~ bond shall at all times be kept in full force and  
21 effect and any cancellation or revocation thereof or  
22 withdrawal of the sureties therefrom shall automatically  
23 revoke and suspend the certificate issued to the lessee ~~of~~  
24 under this act until such time as a new bond of like tenure  
25 and effect shall have been filed and approved as herein

1 provided or a financial statement is filed as provided in  
 2 41-2005. Such bond shall be conditioned to assure that in  
 3 any lease transaction of the type referred to in section  
 4 41-2002 the persons who perform labor or other personal  
 5 services for the lessee are guaranteed their wages in the  
 6 event the lessee ceases operation of the business, for any  
 7 reason, and is unable to pay the wages due and owing the  
 8 employees; and to assure payment due the employment security  
 9 division as a result of payroll taxes."

10 Section 4. Section 41-2008, R.C.M. 1947, is amended to  
 11 read as follows:

12 "41-2008. Lessee's business enjoined until bond or  
 13 statement filed. If any person engages in the restaurant,  
 14 bar or tavern business, as lessee, without having first  
 15 filed a bond or statement as required by section 5 [41-2005]  
 16 of this act, the attorney general of the state of Montana,  
 17 the commissioner of labor and industry of the state of  
 18 Montana, or any citizen, group of citizens or any  
 19 association in the county where the violator conducts his  
 20 business may institute an action to enjoin such person from  
 21 engaging in the business until compliance with this act has  
 22 been met."

23 Section 5. Section 41-2010, R.C.M. 1947, is amended to  
 24 read as follows:

25 "41-2010. New or additional bond -- sureties. ~~The~~ When

1 filing of a bond is the method of complying with 41-2005,  
 2 the commissioner of labor and industry may require a new  
 3 bond or a bond of a greater amount than double the  
 4 semimonthly payroll ~~wherever~~ if at any time the commissioner  
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