LC 1691/01

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INTRODUCED BY Labor connittee 1 2 3 A BILL POR AN ACT ENTITLED: "AN ACT TO ALLON A PERSON ш 5 OPERATING A RESTAURANT OF BAR TO FILE & FINANCIAL STATEMENT IN LIEU OF & BOND TO ASSURE PAYMENT OF EMPLOYEE WAGES AND 6

TAIES: AMENDING SECTIONS 41-2002, 41-2005, 41-2006, 41-2008, 7 8 AND 41-2010. B.C.M. 1947.\*

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTABA: 10

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

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

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

"41-2005. Bond or statement to be filed by lessee ---22 23 another person premises for the purpose of conducting 24 therein a business as a restaurant, bar or tawern is hereby 25

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 and -- inductry 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 я 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." Section 3. Section 41-2006, R.C.M. 1947, is amended to 11 12 read as follows: 13 #41-2006. Time of filing Filing of bond or statement -- terms of bond -- maintenance of bond foquired. The bond 14 15 and-affidavit or statement required by section 41-2005 shall be filed with the commissioner of labor and industry. The If 16 a bond is filed, the state of Montana shall be named as the 17 18 obligee therein with good and sufficient sureties to be 19 approved by the attorney general of the state of Montana. Said The bond shall at all times be kept in full force and 20 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  $\Theta \in$ 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

INTRODUCED BILL

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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 division as a result of payroll taxes." 9

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

12 "41-2008. Lessee's business enjoined until bond or 13 statement filed. If any person engages in the restaurapt, 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 been met." 22

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

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™41-2010. New or additional bond — sureties. <del>The</del> <u>When</u>

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

-End-

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Approved by Committee on Labor & Employment Relations

House BILL NO. 802 1 INTRODUCED BY 2

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

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

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

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

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

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

SECOND READING

required to file with the commissioner of labor and industry 1 2 either a bond equal to at least double the amount of the 3 projected semimonthly payroll with the semissioner of labor а and inductry or an annual financial statement verified by a 5 certified public accountant or licensed public accountant stating that the net worth of the business is in excess of 6 7 \$15,000 in assets located in Bontana. Upon such filing, the 8 commissioner shall issue a certificate stating that the 9 person has complied with this section and is eptitled 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. Fine of \_\_filing of bond or statement - terms of bond -- maintenance of bond required. The bond 14 15 and-affiderit or statement required by section 41-2005 shall 16 be filed with the commissioner of labor and industry. The If a bond is filed, the state of Montana shall be named as the 17 18 obligee therein with good and sufficient sureties to be 19 approved by the attorney general of the state of Montana. Said The bond shall at all times be kept in full force and 20 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 under this act until such time as a new bond of like tenure 24 and effect shall have been filed and approved as herein 25

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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."

Section 4. Section 41-2008, R.C.M. 1947, is amended to
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 Hontana. 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 enjoir such person from 21 engaging in the business until compliance with this act has 22 been met."

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

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#41-2010. New or additional bond -- sureties. #we when

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filing of a bond is the method of complying with 41-2005. 1 the commissioner of labor and industry may require a new 2 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 Hontana 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-

1 HOUSE BILL NO. <u>802</u> 2 INTRODUCED BY <u>Aclos Committee</u> 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLON A PERSON 5 OPERATING A RESTAUBANT 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, B.C. H. 1947."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTABA:

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

13 "41-2002. Bond <u>or statement</u> required of lessee. Prom 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 <u>or statement</u> in accordance with the 19 requirements of section 41-2005."

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

1 required to file with the commissioner of labor and industry 2 either a bond equal to at least double the amount of the projected semimonthly payroll with the commissioner of labor 3 龃 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 R 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 tavers."

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

13 "41-2006. <del>Time-of filing</del> 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 a boad is filed, the state of Montana shall be named as the 17 18 obligee therein with good and sufficient sureties to be 19 approved by the attorney general of the state of Hontana. Said The bond shall at all times be kept in full force and 20 21 effect and any cancellation or revocation thereof or 22 withdrawal of the sureties therefrom shall automatically revoke and suspend the certificate issued to the lessee of 23 under this act until such time as a new bond of like tenure 24 and effect shall have been filed and approved as herein 25

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## THIRD READING

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 event the lessee ceases operation of the business, for any 6 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."

Section 4. Section 41-2008, R.C.H. 1947, is amended to 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 Hontana, 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:

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\*41-2010. New or additional bond -- sereties. #he When

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

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