
a bill for an act entitled: man act to convert the municipal on-premises beer license quotas into a statewide Quota for such licenses; authorizing the board df examiners to recommend compensation for losses realized as a CONSEQUENCE; AMENDING SECTION 4-4-201, R.C.H. 1947."
be it enacted by the legislature of the state of montana:
Section 1. Findings and policy. (1) the leglslature finds that the quotas on retail on-premises beer licenses in and near incorporated cities and towns are on the verge of becoming another species of government-created "new property" in some localities. While the applicable quotas allow the issuance of 409 ticenses in municipal areas and only 275 have thus far been issued, the faster growing cities are now licensed up to their quotas and some retail beer jicenses in these cities have recently been transferrea for valuable consideration. With the advent of franchised pizza restaurants and the enhancement since 1974 of a beer license by the wine amendment, this trend may accelerate. The legislature further finds that neither public policy nor the best interests of present and potential beer bar owners would be served by allowing these licenses to become
valuable property rights such as tavern or all-beverages licenses have become.
(2) The purpose of this act is to modify the municipal beer license quota system into a statewide quota for municipal beer bars, a present quota of 409 licenses which would be adjusted after future census takings. Up to this statewide imit, a retail beer license, with or without a wine amendment. will de available in or around any city or town.

Section 2. Section 4-4-201, R.C.M. 1947, is anended to read as follows:
*4-4-201. Issuance of retail beer licenses -- 1imit on number of beer licenses -- wine license amendments -- retail license fee. (1) Except as otherwise provided by law a license to sell beer at retail. or beer and wine at retail pursuant to subsection (2). in accordance with the provisions of this act and the regulations of the department of revenue, may be issued to any person, firm or corporation Who shall be approved by the department as a fit and proper person, firm or corporation to sell beer; providea, thet:
(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of five (5) miles from the corporate limits of such cities and towns shall be determined on the basis of

INTRODUCED BILL
population as shown by the most recent official United States census authorized by Congress，to wit：In incorporated towns of five hundred（500）inhabitants or 1 ess and within a distance of five（5）miles from the corporate limits of such towns，not more than one（1）retail beer license which shall not be used in conjunction with a retail liquor license；in incorporated cities or incorporated towns of more than five hundred（500）inhabitants and not over two thousand（2000）inhabitants and within a distance of five （5）miles from the corporate limits of such cities or towns， one（1）beer iicense for each five nundred（500）inhabitants which said beer license shali not be used in conjunction with retail liquor licenses；in incorporated cities of over two thousand（2000）inhabitants and within a distance of five（5）miles from the corporate limits of such cities．two \｛2\} additional retail beer licenses for the first two thousand（2000）inhabitants or major fraction thereof and one（1）additional retail beer 1 icense for each additional two thousand（2000）inhabitants which shall not be used in conjunction with retail liquor licenses．Fhe－number－of－the inhabitants－－in－－sueh－－eitites－－and－－townsp－－exetusive－of－the number－of－inhabitants－restiding－within－a－distonce－of－five－fft mites－from－the－corporate－limits－thereafv－－shat＋－－govern－－the number－－of－－retaft－beer－lieenses－thet－may－be－issued－for－ase whthin－sueh－eities－and－towns－and－within－a－distance－－of－－five
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[^0]the area within a distance of five (5) miles from the corporated imits thereof, or for use at premises situated within any unincorporated town shall be as tetermined by the department in the exercise of its sound discretion; provided, that no retail beer license shall be issued for any premises so situated unless the department shali determine that the issuance of such license is required by public convenience and necessity.
(a) Aperson holding a license to sell beer for consumption on the preaises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue such amendment if it findsp on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises mould be supplementary to a restaurant or prepared food business. A person holding a beer-and-wing license may sell wine for consumption on the premises. He may buy wine only at retail from the fepartment. Nonretention of the beer $\mathfrak{j}$ icense, for whatever reason, shall mean automatic loss of the wine amendiaent jicanse.
(3) The annual license fee for a license to sell wine on the premisesp when issued as an amendment to a beer only ticense shall be two hundred dollars (\$200).
(4) A retail license to sell beer in the original packajes for ofr-premise offepremises consumption only may
be issued to eny person, firm or corporation who shall be approved by the department as afit and proper person. fira or corporation to sell beer and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore ilicensed as a pharmacy. The number of such licenses that the department may issue shall not se limitea by the provisions of subsection (i) of this section. but shall be deterained by the department in the exercise of its sound discretion, and the cepartment may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause. The annual license fee for a license to sell beer at retail for off-premises consumption shali be the same as for a retail bear license."

Section 3. There is anew R.C.K. section that reajs as follows:

Compensation for losses. (1) A person who purchased a retail beer ficense between fuly 1,1975 , and january 1, 1977, may apply to the Doard of examiners for compenstion for any damages realized due to this act. The board of examiners shall award compensation, subject to subsection (2), for only such damages as are strictly due to dimination of the value of the licanse as a property right, excluaing all consideration paid for tangible assets, goodwilly name recognition, or insurance or other contract rightse The
department of administration shall provide appraisal advice as requested by the board.
(2) Compensation for damages recognized under subsection (1) shall be 60\% of the damages if the license was transferred between July 1, 1975, and December 31, 1975, and buy of the damages if the Jicense was transferred between January 1, 1976, and January 1, 1977.
(3) Claims awarded by the board of examiners shall be presented to the 46 th legislature for payment. The board may not award more than $\$ 100,000$ for all damages.
-End-

Approved by Committee on 鳃iness and Industry
introduced by
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a bill for an act entitleg: man act to convert the municipal on-premises beer license quotas into a statehide quota for such licenses; authorizing the board of examiners to recommeno compensation for losses realized as a CONSEDUENCE; AMENDING SECTION 4-4-201, R.C.N. 1947.* be it enacted oy the legislature of the state of montana:

Section 1. Findings and policy. (1) The leglslature finds that the quotas on retail on-premises beer licenses in and near incorporated cities and towns are on the verge of becoming another species of government-created new property" in some localities. while the applicable quotas allow the issuance of 409 iicenses in municipal areas and only 275 have thus far been issued, the faster growing cities are now licensed up to their quotas and some retail beer licenses in these cities have recently been transferred for valuable consideration. With the advent of franchised pizza restaurants and the enhancement since 1974 of a beer license by the wine amendment, this trend may accelerate. The legislature further finds that neither public policy nor the best interests of present and potential beer bar owners rould be served by allowing these licenses to become
valuable property rights such as tavern or all-beverages incenses have become.
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"4-4-201. Issuance of retail beer licenses -- timit on number of beer 1 icenses -- wine 1 icense amenduents -- retail license fee. (1) Except as otherwise provided by law, a iicense to sell beer at retail, or beer and wine at retail pursuant to subsection (2), in accordance with the provisions of this act and the regulations of the department of revenue, may be issued to any person, firm or corporation who shall be approved by the department as a fit and proper person, firm or corporation to sell beer; provided, that:
(a) the number af retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of five (5) miles from the corporate limits of such cities and towns shall be determined on the basis of
population as shown by the most recent official United States census authorized by Congress, to wit: In incorporated towns of five hundred (500) inhabitants or less and within a distance of five (5) miles from the corporate limits of such towns. not more than one (l) retail beer license which shall not be used in conjunction with a retail liquor license; in incorporated cities or incorporated towns of more than five hundred (500) inhabitants and not over two thousand (2000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities or towns. one (1) beer license for each five hundred (500) inhabitants which said beer license shall not be used in conjunction with retail 3 iquor licenses; in incorporated cities of over two thousand (2000) inhabitants and within a distance of five (5) miles from the corporate 1 imits of such cities, two (2) additional retail beer licenses for the first two thousand (2000) inhabitants or major fraction thereof and one (1) additional retail beer iicense for each additional two thousand (2000) inhabitants which shall not be used in conjunction with retail liquar licenses. Fhe-number-of-the inhabitants--in--such--eitifes--and--townsr--exctusive-of-the number-of-inhabitants-residing-within-a-distonee-of-five-f5t mites-fromi-the-corporate-timits-thereafy--shot7--govern--the number--of-retoti--beer-ifeenses-that-may-be-issued-for-use within-such-eitites-and-towns-and-within-e-distance--of--five
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to the nearest corporate boundary of such city or town. Retail beer licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided, that such limitations shall not prevent the issuance of a nontransferable and nonassignable retail beer license to any post of a nationaliy chartered veterans* organization or any lodge of a recognized national fraternal organization, if such veterans" or fraternal organization has been in existence for a period of five (5) years or more prior to January 1,1949 . No incorporated eity or incorporated town may by ordinance restrict the number of licenses that the department may issue; provided that no retail beer license may be issued by the department for any premises situated within any zone of such city or town wherein the sale of beer is prohibited by ordinance, a certified copy of which has been filed with the department. The department shall have discretion to deny the issuance of a retail beer license if it shall determine that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.
(b) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of
the area within a distance of five (5) miles from the corporated limits thereof, or for use at premises situated within any unincorporated town shall be as determined by the department in the exercise of its sound discretion; provided, that no retail beer license shall be issued for any premises so situated unless the department shall determine that the issuance of such license is required by public convenience and necessity.
(2) Aperson holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue such amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises mould be supplementary to a restaurant or prepared food business. A person holding a beer-and-wine license may sell wine for consumption on the premises. He may buy wine only at retail from the department. Nonretention of the beer license, for whatever reason, shall mean automatic loss of the wine amendisent license.
(3) The annual license fee for a icense to sell wine on the premisest when issued as an amendment to a beer only license shall be two hundred dollars (\$200).
(4) A retail license to sell beer in the original packages for off-premise off-premises consumption only may
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Section 3. There is a new R.C.M. section that reads as follows:

Compensation for Jossese (1) A person who purchased a retail beer Jicense between July 1, 1975, and January 1, 1977, may apply to the board of examiners for compensation for any damages realized due to this act. The board of examiners shall award compensation, subject to subsection (2) For only such damages as are strictly due to diminution of the value of the license as a property right, excluding all consideration paid for tangible assets, goodwill, name recognition, or insurance or other contract rightse The

## department of administration shall provide appraisal advice as requested by the board.

(2) Compensation for damages recognized under subsection (1) shall be $60 x$ of the damages if the license was transferred between July 1. 1975, and December 31. 1975. and $80 \%$ of the damages if the license was transferred between January 1, 1976, and January 1, 1977.
(3) Clains awarded by the board of examiners shall be presented to the 46th legislature for payment. The board may not award more than $\$ 100,000$ for all damages.
-End-

## Approved by Committee on Business and Industry

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SENATE BILL ND. 206
1.4Troculed by lowe. fasbender, murray, regan. imathers. olson a bill for an act entifled: man act to convert the municipal on-premises beer license guotas into a stateuide QUOTA FOR SUCH LICENSES: AND PEQYIDING COMPENSAIION EROM.THE GENEEAL EUND BY INCREASING THE RETALL BEER ICENSE FEE: allthorizing the board of examiners to recommend compensationt For lasses realized as a consequence; amending seeftent SEELIUNS 4-4-201, AND_4-4-4012 R.C.M. 1947."
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SECOND READING

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 GENERAL EIMR. The board may not award more than $\$ 100,000$ for a) 1 danages.
 READ AS FOLLIUS:

44-4-401. Fees for licenses -- expiration dates regulation by cities and townse Each licensee, under the provisions of this code, shall pay an amual license fee as follows:

Each mbrewer," wherever located, whose product is sold or offered for sale within the statep five hundred dollars (\$500);

Each mwholesaler" four hundred dollars (\$400);

Any unit of a nationally chartered veterans

## organization fifty dollars (\$50);

All licenses issued in any year shall expire on the $30 t h$ day of June at midnight of such year. A transfer of any such license may be made on application to the zontana department of revenue with the consent of the said department provided that said transferee stall qualify under this code. The cities and incorporated towns may enact ordinances defining certain areas in said cities or tomns where beer may or may not be sold providing that said ordinance does not affect the limit of retail beer licenses which shall be issued by the Montana department of revenue based upon the population of the city or town and said city or town shall file a certified copy of said ordinance with the montana department of revenue. This code shall not be construed or interpreted so as to repeal, amend, modify, change, or alter any provisions of this code which require beer manufactured outsife of the state of Montana and sioiops into Montana to be consigned to and shipped to 3 licensed wholesaler and by him unloaded into his warehouse or sunwarehouse in :ontana."

 1972._AEIER IHAI DAIE, THE FEE FOR A REFR BEIAILER LICEYSE BEYERIS IU_\$200.
-End-
SHATE RILL NE 208
IGTRJUULEO BY LOWE, FASEENDER, HURRAY, RESAIS, YATHEKS, JLSON
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| :---: | :---: |
| 2 | cities and tows shall be determined on the basis of |
| 3 | population as stown ty the most recent official United |
| 4 | States census authorized by Congress，to wit：In |
| 5 | incorporated towns of five hundred（500）inhabitants or less |
| 6 | and within a distance of five（5）miles from the corporate |
| 7 | limits of such towns，not more than one（1）retail beer |
| 8 | license which shall not be used in conjunction with a retail |
| 7 | liquor licensei in．incorporated cities or incorporated towns |
| 10 | of wore than five hundred（500）inhabitants and not over two |
| 11 | thousand \｛ 2000 ）inhabitants and within a distance of five |
| 12 | （5）miles from the corporate limits of such cities or towns， |
| 13 | one（1）beer license for each five hundred（500）inhabitants |
| 14 | which said beer license shall not be used in conjunction |
| 15 | with retail liquor licenses；in incorporated cities of over |
| 16 | two thousand（2000）inhabitants and within a distance of |
| 11 | five（5）miles from the corborate limits of sucil cities．two |
| 15 | （2）afditional retail beer licenses for the first tw |
| 19 | thous．and（2COC）inhatitants or major fraction thoreof and |
| 26 | one（1）additional retail beer license for each additional |
| 21 | two thoussna（2000）iahebitants which shatl not be user in |
| 22 | conjunction with retail liquor licenses．Fne－mummer |
| ご | inhabitants－－in－－such－－eitios－－ond－－townsy－－exetusivenf－ |
| 24 | number－sf－inhmititants－residinng－within－a－disteance－at－five－t， |
|  |  |

> number－－of－－retait－－beer－Hieenses－ththemay－be－issued－fer－use Within－sbeh－tities－ams－towns－enc－within－a－itstance－－of－－five fラi－－mites－frem－the－corporete－timits－thereoft－providedy－thnt whert－tre－－tzt－－or－－more－－incorporated－－munieipatitite－ore situoted－－within－－n－－distance－of－－five－－f5t－miter－from－each otherv－the－total－numbsr－of－retait－beer－7feenses－that－may－be issued－－for－－use－in－toth－of－sueh－manieipatities－mnewithin－s distance－of－five－t5t－mites－from－their－－respective－－eorporate ＋imitsy－－shn＋7－－be－－determined－－on－the－bosis－ot－the－combined poputations－of－both－of－streh－－munitipalities－－ond－－shatt－－not exered－－the－－foregoing̣－－＋imitetionsv Ihe departaent＿shall determine the number of retail＿beer licenses mbich gay be issued in or within s miles of all the incorporated cities and towns in the state under the foregoing limitations as long as this number exceeds the number of retail beer licenses actually issued in or within 5 miles of all the incorperated cities and temnsin the staten tne cieparthient max is wenew＿retail beer licenses＿in or yitinin 5 giles of anx＿incorporated＿sity or town＿notiittistandinc the queta limitetions ineffect prior te the effective date of this ancondatary＿act＿in that＿city or towne Municioal＿auctas shell 22＿conputed on the basis＿of the population of the city or townexcludina－tho population mitain the＿5zaile arca outside the＿nunicicgl bounderies．The said distance of five（5） miles from the corporate limits of any incorporatec city or
incorporated town shall be neasured in a straight line from the nurest entrance of the premises proposed for ticensinn to the nearost corporate nourdary of such city or town. getail beer licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided, that such limitations shall not prevent the issuance of a nontransferable and nonassignable retail beer license to any post of a nationally chartered veterans. oreanization or any lodje of a recognized national fraternal organization, if such veterans" or fraternal organization has beon in existence for a period of five (5) years or more prior to Jonuary 1, 1949. No incorporated city or incoronrated town may by ordinance restrict the number of licenses that the depertment may issue; provided that no ratail bear license may be issued by the deoartant for any pronises situated witlin any zone of such city or town wherein the sale of beer is prohibited by ordinance, a certified copy of which has been filed with the department. The department shall have discretion to deny the issuance of retail beer license if it shall determine that the premises proposed for licensing are off regular police beats and cannot be properly noliced by local authoritias.
(b) The number of retail beer licenses that the
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departacnt may issue for use st premises sitwated outside of any incorporated citv or incorporated town and outside of the =roz within a distance of five (s) miles from the corperated 1 imits thereof or for use at premises situated within any unincorporated town shall be as determined by the department in the exercise of its sound discretion; nrovitad, that no retail berar license shall be issued for any premises so situated unless the department shall letermine that the issuance of such license is required by public convenience and necessity.
(2) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an mmendment to the license permitting the holder to sell wine as well as beer. The division may issue such amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the prenis:2s would be supplementary to a restaurant or prepared food business. A person holding z beer-and-wine license may sell wine for consumption on the oremises. He may buy wine only gt retail from the department. Noaretention of the beer license, for whatever reason, shall mean automatic loss of the rine amendment license.
(3) The annual license fee for a liconse to self wine on tio premises, when issued as an anendment to a beer only license shall be two hundred dollars \{ 3200 ).
(4) A retail license to sell beer in the original packages for off-premise off-premises consumption only may be issued to any person. firn or corporation who shall be approved by the department es a fit and proper person, firai or corporation to sell beer and whose prefises proposed for ficensing are operated as a bona fide grocery store or a drugstore licensed as a rharmacye The number of such licenses that the fepart:nent may issue shall not be iamited by the provisions of suosection (1) of this section, but shall be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause. The annual license fee for a license to sell beer at retail for off-premises consumption shall be the same as for a retail beer license."

Section 3. There is a new R.C.M. section that reads as follows:

Compensation for losses. (1) A person who purchased a retail beer license between July 1, 1975, and January 1 , 1977, may aoply to the board of examimers for comonsation for $\exists \mathrm{my}$ damaces realized due to this act. The board of examiners shall award comensationg sunject to subsection (2). for only such damejes as are strictly due to diminution of the value of the license as a property rioht, excludinn
all consideration paid for tanable assets, ooodwill, namf reconnition, or insurance or other contract rights. The department of edministration REYENUE shall orovide appraisal dvice as requested by the board.
(2) Compensation for damages recognizod under subseftion (1) shall be 60\% of the damages if the license
 31, 2cif, and $80 \%$ of the damages if the licrnse was transferred between January 1, 1976, and January ly 1977.
(3) Chaifs awarded by the board of examiners shall be presented--to-the-46th-tegistoture-for-poyment PAID_EROM_IHE GENERAL FUND. The board may not award more than $\$ 100,000$ for all damages.

SECIIOM_4e SECIION_4-4-401, ReGeHe 1247e IS AMENDED IO READ AS EOLLOMS:

44-4-401. Fees for licenses -- expiration dates rearlition by cities and townse each licensee, under the provisions of this code, shall pay an annual license fee as follows:

Each "brewer," wherever located, whosc product is sold or offered for sale witilin the state, five hundred dollars (\$500);


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[^0]:    to the nearest corporate boundary of such city or town Retail beer licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided, that such fimitations shall not prevent the issuance of a nontransferable and nonassignable retail beer 1icense to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization, if such veterans" or fraternal organization hes been in existence for a period of five (5) years or more prior to January 1, 1949. No incorporated city or incorporated town may by ordinance restrict the number of Ticenses that the department may issue: provided that no retail beer license may ba issued by the department for any premises situated witnin any zone of such city or town wherein the sale of beer is pronidited by ordinance, a certified copy of which has been filed with the departnent. The department shall have discretion to deny the issuance of a rotail beer license if it shall deterinine that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.
    (b) The number of retail beer licenses that the department may issue for use at premises situated outsije of any incorporated city or incorporated town and outside of

[^1]:    grạnization fifty tollars (\$50);
    All ifenses issued in any year shall expire on the 30th day of June at midnight of such year. A transfer of any such license may be made on application to the fontana departmant of revenue with the consent of the said department provided that said transferee shall qualify under this :ade. The cities and incorporated towns may enact ordinances defining certain areas in said cities or towns where beer may or may not be sold providing that said ordinance does not affect the linit of retail beer licenses which shail be issued by the Montana department of revenue based upon the population of the city or town and said city or town shall file a certified copy of said ordinance with the montana department of revenue. This code shall not be construad or interpreted so as to repeal, amend, modify, change, or alter any provisions of this code which require beer manufactured outside of the state of Montana and snippec into Montane to be consigned to and shioped to a licensod wholesaler and by him unloaded into his warehouse or sumwarehouse in vontana."
    
     1972._AEIER IHAL DAIE THE FEE EOB A BEEF RETAILER LICENSE BEYEBEFTOL200.

