

HOUSE BILL 54

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Labor and Employment Relations.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to prefiled bills.
February 21, 1979	Intent statement attached Committee recommend bill, as amended.
February 22, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, pass consideration.
February 23, 1979	Second reading, as amended, do not pass.

1 HOUSE BILL NO. 54

2 INTRODUCED BY _____

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION

6 39-3-603, MCA, TO DEFINE BOND AND TO INCLUDE CERTIFICATE OF

7 DEPOSIT IN THE DEFINITION."

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

10 Section 1. Section 39-3-603, MCA, is amended to read:

11 "39-3-603. Definitions. For the purposes of this part,

12 the words and phrases used herein have the following

13 meaning:

14 (1) "Bar" or "tavern" means a house where liquor or

15 beer is sold to be drunk on the premises.

16 (2) "Beer" means any beverage so defined in the

17 Montana Alcoholic Beverages Code.

18 ~~(3) "Bond" means, in addition to the ordinary meaning~~

19 ~~of a surety bond, a certificate of deposit in the required~~

20 ~~amount, subject to all the conditions of a bond found in~~

21 ~~this part, and made payable to the lessee and the~~

22 ~~department.~~

23 ~~(3)(4)~~ "Business" means a commercial enterprise of any

24 kind involving the buying and selling of goods.

25 ~~(4)(5)~~ "Employee" means a person who works for wages

1 or salary in the service of an employer.

2 ~~(5)(6)~~ "Lessee" means one to whom a lease is made.

3 ~~(6)(7)~~ "Liquor" means any beverage so defined in the

4 Montana Alcoholic Beverages Code.

5 ~~(7)(8)~~ "Person" includes any establishment, firm,

6 partnership, corporation, person, or association of persons.

7 ~~(8)(9)~~ "Restaurant" means a public eating house where

8 food is prepared and served for human consumption on the

9 premises."

-End-

1 STATEMENT OF INTENT RE: HB 54

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A statement of intent is required for this bill because section 3 of this bill gives the department of labor and industry rulemaking authority. The department will need rulemaking authority if this bill passes because the department will need to establish a uniform and publicly known method of filing a certificate of deposit or a security interest on a liquor license in place of a bond to ensure that employees of a restaurant, bar, or tavern will be paid their wages. The rules will be limited to spelling out how a certificate of deposit can be accepted, the disposition of interest earned by the certificate, and how a security interest is to be filed on a liquor license and how the security interest will be removed.

First adopted by the HOUSE COMMITTEE ON LABOR on February 20, 1979.

HB 54

Approved by Committee on Labor & Employment Relations

1 HOUSE BILL NO. 54
 2 INTRODUCED BY QUILICI
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 6 SECTIONS 39-3-603 AND 39-3-604, MCA, TO DEFINE BOND AND TO
 7 INCLUDE CERTIFICATE OF DEPOSIT IN THE DEFINITION AND A
 8 SECURITY INTEREST ON A LIQUOR LICENSE IN THE DEFINITION;
 9 PROVIDING LIMITED RULEMAKING AUTHORITY; AND EXEMPTING THE
 10 BINDING REQUIREMENTS FOR PERSONS WITH A NET WORTH EXCEEDING
 11 \$50,000."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 39-3-603, MCA, is amended to read:
 15 "39-3-603. Definitions. For the purposes of this part,
 16 the words and phrases used herein have the following
 17 meaning:
 18 (1) "Bar" or "tavern" means a house where liquor or
 19 beer is sold to be drunk on the premises.
 20 (2) "Beer" means any beverage so defined in the
 21 Montana Alcoholic Beverages Code.
 22 (3) "Bond" means, in addition to the ordinary meaning
 23 of a surety bond, a certificate of deposit in the required
 24 amount, subject to all the conditions of a bond found in
 25 this part, and made payable to the lessee and the department

1 OF LABOR AND INDUSTRY, OR A SECURITY INTEREST FILED BY THE
 2 DEPARTMENT OF LABOR AND INDUSTRY ON A LIQUOR LICENSE ISSUED
 3 BY THE DEPARTMENT OF REVENUE (INCLUDING AN ALL-BEVERAGES
 4 LICENSE, A RETAIL BEER LICENSE, OR A RETAIL BEER AND WINE
 5 LICENSE) IN THE REQUIRED AMOUNT AND SUBJECT TO THE
 6 CONDITIONS OF A BOND FOUND IN THIS PART.
 7 (4)(4) "Business" means a commercial enterprise of any
 8 kind involving the buying and selling of goods.
 9 (4)(5) "Employee" means a person who works for wages
 10 or salary in the service of an employer.
 11 (5)(6) "Lessee" means one to whom a lease is made.
 12 (6)(7) "Liquor" means any beverage so defined in the
 13 Montana Alcoholic Beverages Code.
 14 (7)(8) "Person" includes any establishment, firm,
 15 partnership, corporation, person, or association of persons.
 16 (8)(9) "Restaurant" means a public eating house where
 17 food is prepared and served for human consumption on the
 18 premises."
 19 SECTION 2. SECTION 39-3-604, MCA, IS AMENDED TO READ:
 20 "39-3-604. Bond to be filed by lessee -- bond
 21 requirements. (1) Every person who leases from another
 22 person premises for the purpose of conducting therein a
 23 business as a restaurant, bar, or tavern is hereby required
 24 to file a bond equal to at least double the amount of the
 25 projected seaimonthly payroll with the commissioner of labor

1 and industry. Said bond shall at all times be kept in full
 2 force and effect and any cancellation or revocation thereof
 3 or withdrawal of the sureties therefrom shall automatically
 4 revoke and suspend the certificate issued to the lessee of
 5 this part until such time as a new bond of like tenure and
 6 effect shall have been filed and approved as herein
 7 provided.

8 (2) The bond and affidavit required by subsection (1)
 9 of this section shall be filed with the commissioner of
 10 labor and industry. The state of Montana shall be named as
 11 the obligee therein, with good and sufficient sureties to be
 12 approved by the attorney general.

13 (3) Such bond shall be conditioned to assure that in
 14 any lease transaction of the type referred to in 39-3-608
 15 the persons who perform labor or other personal services for
 16 the lessee are guaranteed their wages in the event the
 17 lessee ceases operation of the business for any reason and
 18 is unable to pay the wages due and owing the employees and
 19 to assure payment due the division of employment security as
 20 a result of payroll taxes.

21 ~~(4) The provisions of this section do not apply to any~~
 22 ~~resident person who leases from another person premises for~~
 23 ~~the purpose of conducting a business as a restaurant, bar,~~
 24 ~~or tavern and who presents to the commissioner a financial~~
 25 ~~statement certified by a licensed certified public~~

1 ~~accountant attesting to a net worth of the resident person~~
 2 ~~exceeding \$50,000. For the purposes of this part, a~~
 3 ~~"resident person" means any person who is a bona fide~~
 4 ~~resident of this state, or any partnership or association or~~
 5 ~~corporation, the majority of whose members are bona fide~~
 6 ~~residents of this state."~~

7 ~~SECTION 3. THERE IS A NEW MCA SECTION THAT READS:~~

8 Rulemaking authority. The department of labor and
 9 industry shall make and revise rules adopting procedures for
 10 the use of certificates of deposit and security interests on
 11 a liquor license to supplement the bond requirements of this
 12 part.

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