

HOUSE BILL 277

IN THE HOUSE

January 19, 1979

Introduced and referred to
Committee on Business and
Industry.

February 2, 1979

Committee recommend bill,
do not pass.

February 5, 1979

Report adopted.

HOUSE BILL NO. *277*

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF REVENUE

Bennett *Quistad*
Bennett

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 16-4-105, MCA, TO PROVIDE THAT STORES POSSESSING A RETAIL STORE LICENSE MAY BE LICENSED FOR THE SALE OF BEER FOR OFF-PREMISES CONSUMPTION."

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

Section 1. Section 16-4-105, MCA, is amended to read:

"16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption. (1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation who is approved by the department as a fit and proper person, firm, or corporation to sell beer, except that:

(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 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, as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of such towns, not more than one retail beer license, which may not be used in conjunction with a retail all-beverages license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities or towns, one beer license for each 500 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities, two additional retail beer licenses for the first 2,000 inhabitants or major fraction thereof and one additional retail beer license for each additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(b) the number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail beer licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits

1 thereof. If two or more incorporated municipalities are
 2 situated within a distance of 5 miles from each other, the
 3 total number of retail beer licenses that may be issued for
 4 use in both of such municipalities and within a distance of
 5 5 miles from their respective corporate limits shall be
 6 determined on the basis of the combined populations of both
 7 of such municipalities and may not exceed the foregoing
 8 limitations. The distance of 5 miles from the corporate
 9 limits of any incorporated city or incorporated town shall
 10 be measured in a straight line from the nearest entrance of
 11 the premises proposed for licensing to the nearest corporate
 12 boundary of such city or town.

13 (c) retail beer licenses of issue on March 7, 1947,
 14 and which are in excess of the foregoing limitations shall
 15 be renewable, but no new licenses may be issued in violation
 16 of such limitations;

17 (d) such limitations do not prevent the issuance of a
 18 nontransferable and nonassignable retail beer license to a
 19 post of a nationally chartered veterans' organization or a
 20 lodge of a recognized national fraternal organization if
 21 such veterans' or fraternal organization has been in
 22 existence for a period of 5 years or more prior to January
 23 1, 1949;

24 (e) the number of retail beer licenses that the
 25 department may issue for use at premises situated outside of

1 any incorporated city or incorporated town and outside of
 2 the area within a distance of 5 miles from the corporate
 3 limits thereof or for use at premises situated within any
 4 unincorporated town shall be as determined by the department
 5 in the exercise of its sound discretion, except that no
 6 retail beer license may be issued for any premises so
 7 situated unless the department determines that the issuance
 8 of such license is required by public convenience and
 9 necessity.

10 (2) A person holding a license to sell beer for
 11 consumption on the premises at retail may apply to the
 12 department for an amendment to the license permitting the
 13 holder to sell wine as well as beer. The division may issue
 14 such amendment if it finds, on a satisfactory showing by the
 15 applicant, that the sale of wine for consumption on the
 16 premises would be supplementary to a restaurant or
 17 prepared-food business. A person holding a beer-and-wine
 18 license may sell wine for consumption on the premises. He
 19 may buy wine only at retail from the department.
 20 Nonretention of the beer license, for whatever reason, shall
 21 mean automatic loss of the wine amendment license.

22 (3) A retail license to sell beer in the original
 23 packages for off-premises consumption only may be issued to
 24 any person, firm, or corporation who is approved by the
 25 department as a fit and proper person, firm, or corporation

1 to sell beer and whose premises proposed for licensing are
2 ~~operated as a bona fide grocery store or a drugstore~~
3 ~~licensed as a pharmacy~~ is a store at a fixed location
4 possessing and displaying a Montana retail store license
5 required by Title 15, chapter 57, part 1. The number of
6 such licenses that the department may issue is not limited
7 by the provisions of subsection (1) of this section but
8 shall be determined by the department in the exercise of its
9 sound discretion, and the department may in the exercise of
10 its sound discretion grant or deny any application for any
11 such license or suspend or revoke any such license for
12 cause."

-End-

HB 277

STATE OF MONTANA

REQUEST NO. 80-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, 19 79, there is hereby submitted a Fiscal Note for House Bill 277 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

This proposed bill provides that stores possessing a retail store license may be licensed for the sale of beer for off-premises consumption.

ASSUMPTIONS

- 1) There are approximately 10,000 retail store licenses in the state, so there is a potential for 10,000 licenses to sell beer for off-premise consumption.
- 2) At present there are 700 establishments licensed to sell beer for off-premise consumption.
- 3) Additional licenses to sell beer for off-premise consumption of 400 for FY80 and 300 for FY81.
- 4) A fee of \$200 for a license to sell beer for off-premise consumption.
- 5) Administrative costs will increase \$1000 for each year of the biennium.

FISCAL IMPACT

	<u>FY 80</u>	<u>FY 81</u>
Retail License to sell beer for off-premise consumption		
under current law	\$140,000	\$140,000
under proposed law	<u>220,000</u>	<u>200,000</u>
Estimated Increase	<u>\$ 80,000</u>	<u>\$ 60,000</u>
Operating Expenses (Additional Expenses)		
under current law	\$ 0	\$ 0
under proposed law	<u>1,000</u>	<u>1,000</u>
Estimated Increase	<u>\$ 1,000</u>	<u>\$ 1,000</u>
Net Effect	<u>\$ 79,000</u>	<u>\$ 59,000</u>

FUND INFORMATION

General Fund		
Estimated Increase	<u>\$ 79,000</u>	<u>\$ 59,000</u>

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/26/79