

CHAPTER NO. 583

HOUSE BILL NO. 334

INTRODUCED BY HIRSCH, HUENNEKENS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 23, 1979	Introduced and referred to Committee on Business and Industry.
January 26, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 27, 1979	Printed and placed on members' desks.
January 30, 1979	Third reading, Consent Calendar passed. Transmitted to second house.

IN THE SENATE

January 31, 1979	Introduced and referred to Committee on Business and Industry.
March 8, 1979	Committee recommend bill be concurred in. Report adopted.
March 10, 1979	Second reading, concurred in.
March 13, 1979	Third reading, concurred in.

IN THE HOUSE

March 14, 1979	Returned from second house. Concurred in. Sent to enrolling.
March 19, 1979	Correctly enrolled.

March 19, 1979	Signed by President. Signed by Speaker.
March 20, 1979	Delivered to Governor.
March 26, 1979	Returned from Governor with recommended amendments. On motion, Governor's amendments placed on second reading for the 72nd Legislative Day.
March 29, 1979	Second reading, amendments adopted.
March 30, 1979	Third reading, amendments adopted. Transmitted to second house.

IN THE SENATE

March 31, 1979	Governor's recommendation for amendments submitted to the Senate.
April 2, 1979	Committee of the Whole recommend Senate adopt Governor's amendments.
April 3, 1979	On third reading, Governor's amendments adopted. Transmitted to House.

IN THE HOUSE

April 4, 1979	Returned from second house. Sent to enrolling. Reported correctly enrolled.
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1 House BILL NO. 334
 2 INTRODUCED BY L. Hines Hunsicker
 3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE HEARING
 6 REQUIREMENTS FOR THE ISSUE OR TRANSFER OF ALCOHOLIC BEVERAGE
 7 LICENSES; AMENDING SECTIONS 16-4-202 AND 16-4-207, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 16-4-207, MCA, is amended to read:

11 "16-4-207. Notice of application -- publication --
 12 protest. (1) When an application has been filed with the
 13 department for a license to sell alcoholic beverages at
 14 retail or to transfer such license, the department shall
 15 promptly publish in a newspaper of general circulation in
 16 the city, town, or county from which the application comes a
 17 notice that such applicant has made application for such
 18 license and that protests against the issuance of a license
 19 to the applicant ~~will be heard at a time and place stated in~~
 20 ~~the notice, which shall be in the city of Helena, Montana~~
 21 ~~may be mailed to a named administrator in the department of~~
 22 ~~revenue within 10 days after the final notice is published.~~

23 Notice of application for a new license shall be published
 24 once a week for 4 consecutive weeks. Notice of application
 25 for transfer of a license shall be published once a week for

1 2 consecutive weeks. Notice may be substantially in the
 2 following form:

3 NOTICE OF APPLICATION FOR RETAIL
 4 ALL-BEVERAGES LICENSE

5 Notice is hereby given that on the day of,
 6 19.., one (name of applicant) filed an application for a
 7 retail all-beverages license with the Montana department of
 8 revenue, to be used at (describe location of premises where
 9 beverages are to be sold), and protests, if any there be,
 10 against the issuance of such license ~~will be heard at the~~
 11 ~~hour of --- --- may be mailed to --- Department of~~
 12 ~~Revenue, Helena, Montana, on or before the day of~~
 13 ~~19.. at the office of the Montana department of revenue in~~
 14 ~~Helena, Montana.~~

15 Dated Signed

16 ADMINISTRATOR
 17 (2) Each applicant shall, at the time of filing his
 18 application, pay to the department an amount sufficient to
 19 cover the costs of publishing the notice.

20 (3) ~~If the administrator receives no protests, the~~
 21 ~~department may issue or transfer the license without holding~~
 22 ~~a public hearing. If, however, any protests against the~~
 23 ~~issue or transfer of the license are received, the~~
 24 ~~department shall hold a hearing at its office in Helena."~~

25 Section 2. Section 16-4-202, MCA, is amended to read:

1 *16-4-202. Resort licenses. (1) It is the intent and
 2 purpose of this section to encourage the growth of quality
 3 recreational resort facilities in undeveloped areas of the
 4 state and to provide for the orderly growth of existing
 5 recreational sites by the establishment of resort areas
 6 within which retail liquor licenses may be issued by the
 7 department under the terms and as more particularly
 8 prescribed below. In addition to the licenses as otherwise
 9 set forth in [this act], the department may issue resort
 10 retail liquor licenses in a resort area.

11 (2) For the purposes of this section, a resort area is
 12 defined as a recreational facility meeting the
 13 qualifications determined by the department as hereinafter
 14 provided.

15 (3) The department shall determine that the area for
 16 which licenses are to be issued is a resort area, such
 17 determination to be made under and pursuant to rules to be
 18 first promulgated on or before December 31, 1975.

19 (4) In addition to the other requirements of this
 20 code, a resort area, for the purposes of qualification for
 21 the issuance of resort retail liquor license, must have a
 22 current actual valuation of resort or recreational
 23 facilities, including land and improvements thereon, of not
 24 less than \$500,000, at least half of which valuation must be
 25 for a structure or structures within the resort area, and

1 must be under the sole ownership or control of one person or
 2 entity at the time of the filing of the resort area plat
 3 referred to in subsection (5) of this section. The word
 4 control shall mean lands held under lease, option, or
 5 permit.

6 (5) The resort area must be determined by the resort
 7 developer or landowner by a plat setting forth the resort
 8 boundaries, designating the ownership of the lands within
 9 the resort area, which plat must be verified by the resort
 10 developer or landowner and filed with the department prior
 11 to the filing of any applications by individuals for
 12 licenses within the resort area. Such plat must show the
 13 location and general design of the buildings and other
 14 improvements to be built in said area in which resort retail
 15 liquor licenses are to or may be located. A master plan for
 16 the development of the area may be filed by the resort
 17 developer in satisfaction of this section.

18 (6) Upon such filing the department shall forthwith
 19 schedule a public hearing to be held in Helena, Montana, to
 20 determine whether the facility proposed by the resort
 21 developer or landowner is a resort area within the meaning
 22 of the rules of the department. At least 30 days prior to
 23 the date of the hearing, the department shall publish notice
 24 thereof, with a description of the location of the proposed
 25 resort area, in a newspaper published in the county or

1 counties in which the resort is located, once a week for 4
2 consecutive weeks. Each resort developer or landowner
3 shall, at the time of filing his application, pay to the
4 department an amount sufficient to cover the costs of said
5 publication.

6 (7) Persons may present statements to the department
7 at the hearing in person or in writing in opposition or
8 support of the plat.

9 (8) Within 30 days of the hearing, the department
10 shall accept or reject the plat. If rejected the department
11 must state its reasons and set forth the conditions, if any,
12 under which the plat will be accepted, and the decision of
13 the department may be reviewed pursuant to the review
14 procedure set forth in 16-4-406.

15 (9) Once filed with the department, the boundaries of
16 a resort may not be changed without full hearing as above
17 provided and the prior approval of the department, which
18 approval shall be according to public convenience and
19 necessity.

20 (10) (a) When the department has accepted a plat and a
21 given resort area has been determined, applications may then
22 be filed with the department by persons for the issuance of
23 resort retail liquor licenses within the resort area.

24 (b) Each applicant must submit plans showing the
25 location, appearance, and floor plan of the premises for

1 which application for a license is made.

2 (c) If an applicant otherwise qualifies for a resort
3 license but the premises to be licensed are still in
4 construction or are otherwise incomplete at the time of such
5 application, the department shall issue a letter stating
6 that the license will be issued at such time as the
7 qualifications for a licensed premises have been met,
8 setting forth such time limitations and requirements as the
9 department may establish.

10 (11) In addition to the restrictions on sale or
11 transfer of a license as provided in 16-4-204, no resort
12 retail liquor license may be sold or transferred for
13 operation at a location outside of the boundaries of the
14 resort area.

15 (12) A resort retail liquor license shall not be
16 subject to the quota limitations set forth in 16-4-201, and
17 a resort retail liquor license shall be issued by the
18 department on the basis that the department has determined
19 that such license is justified by public convenience and
20 necessity, following ~~a hearing~~ publication as provided
21 required in 16-4-207."

-End-

HB 334

Approved by Committee
on Business and Industry

House BILL NO. 334

INTRODUCED BY L. Hines Hunsicker

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE HEARING REQUIREMENTS FOR THE ISSUE OR TRANSFER OF ALCOHOLIC BEVERAGE LICENSES; AMENDING SECTIONS 16-4-202 AND 16-4-207, MCA."

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

Section 1. Section 16-4-207, MCA, is amended to read:

"16-4-207. Notice of application -- publication --

protest. (1) When an application has been filed with the department for a license to sell alcoholic beverages at retail or to transfer such license, the department shall promptly publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that such applicant has made application for such license and that protests against the issuance of a license to the applicant ~~will be heard at a time and place stated in the notice which shall be in the city of Helena, Montana~~ may be mailed to a named administrator in the department of revenue within 10 days after the final notice is published.

Notice of application for a new license shall be published once a week for 4 consecutive weeks. Notice of application for transfer of a license shall be published once a week for

2 consecutive weeks. Notice may be substantially in the following form:

NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE

Notice is hereby given that on the day of 19.., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue, to be used at (describe location of premises where beverages are to be sold), and protests, if any there be, against the issuance of such license ~~will be heard at the hour of --- --- --- may be mailed to --- Department of Revenue, Helena, Montana, on or before the day of 19.. at the office of the Montana department of revenue in Helena, Montana.~~

Dated Signed
ADMINISTRATOR

(2) Each applicant shall, at the time of filing his application, pay to the department an amount sufficient to cover the costs of publishing the notice.

(3) If the administrator receives no protests, the department may issue or transfer the license without holding a public hearing. If, however, any protests against the issue or transfer of the license are received, the department shall hold a hearing at its office in Helena."

Section 2. Section 16-4-202, MCA, is amended to read:

HB 334
CONSENT CALENDAR

1 *16-4-202. Resort licenses. (1) It is the intent and
 2 purpose of this section to encourage the growth of quality
 3 recreational resort facilities in undeveloped areas of the
 4 state and to provide for the orderly growth of existing
 5 recreational sites by the establishment of resort areas
 6 within which retail liquor licenses may be issued by the
 7 department under the terms and as more particularly
 8 prescribed below. In addition to the licenses as otherwise
 9 set forth in [this act], the department may issue resort
 10 retail liquor licenses in a resort area.

11 (2) For the purposes of this section, a resort area is
 12 defined as a recreational facility meeting the
 13 qualifications determined by the department as hereinafter
 14 provided.

15 (3) The department shall determine that the area for
 16 which licenses are to be issued is a resort area, such
 17 determination to be made under and pursuant to rules to be
 18 first promulgated on or before December 31, 1975.

19 (4) In addition to the other requirements of this
 20 code, a resort area, for the purposes of qualification for
 21 the issuance of resort retail liquor license, must have a
 22 current actual valuation of resort or recreational
 23 facilities, including land and improvements thereon, of not
 24 less than \$500,000, at least half of which valuation must be
 25 for a structure or structures within the resort area, and

1 must be under the sole ownership or control of one person or
 2 entity at the time of the filing of the resort area plat
 3 referred to in subsection (5) of this section. The word
 4 control shall mean lands held under lease, option, or
 5 permit.

6 (5) The resort area must be determined by the resort
 7 developer or landowner by a plat setting forth the resort
 8 boundaries, designating the ownership of the lands within
 9 the resort area, which plat must be verified by the resort
 10 developer or landowner and filed with the department prior
 11 to the filing of any applications by individuals for
 12 licenses within the resort area. Such plat must show the
 13 location and general design of the buildings and other
 14 improvements to be built in said area in which resort retail
 15 liquor licenses are to or may be located. A master plan for
 16 the development of the area may be filed by the resort
 17 developer in satisfaction of this section.

18 (6) Upon such filing the department shall forthwith
 19 schedule a public hearing to be held in Helena, Montana, to
 20 determine whether the facility proposed by the resort
 21 developer or landowner is a resort area within the meaning
 22 of the rules of the department. At least 30 days prior to
 23 the date of the hearing, the department shall publish notice
 24 thereof, with a description of the location of the proposed
 25 resort area, in a newspaper published in the county or

1 counties in which the resort is located, once a week for 4
 2 consecutive weeks. Each resort developer or landowner
 3 shall, at the time of filing his application, pay to the
 4 department an amount sufficient to cover the costs of said
 5 publication.

6 (7) Persons may present statements to the department
 7 at the hearing in person or in writing in opposition or
 8 support of the plat.

9 (8) Within 30 days of the hearing, the department
 10 shall accept or reject the plat. If rejected the department
 11 must state its reasons and set forth the conditions, if any,
 12 under which the plat will be accepted, and the decision of
 13 the department may be reviewed pursuant to the review
 14 procedure set forth in 16-4-406.

15 (9) Once filed with the department, the boundaries of
 16 a resort may not be changed without full hearing as above
 17 provided and the prior approval of the department, which
 18 approval shall be according to public convenience and
 19 necessity.

20 (10) (a) When the department has accepted a plat and a
 21 given resort area has been determined, applications may then
 22 be filed with the department by persons for the issuance of
 23 resort retail liquor licenses within the resort area.

24 (b) Each applicant must submit plans showing the
 25 location, appearance, and floor plan of the premises for

1 which application for a license is made.

2 (c) If an applicant otherwise qualifies for a resort
 3 license but the premises to be licensed are still in
 4 construction or are otherwise incomplete at the time of such
 5 application, the department shall issue a letter stating
 6 that the license will be issued at such time as the
 7 qualifications for a licensed premises have been met,
 8 setting forth such time limitations and requirements as the
 9 department may establish.

10 (11) In addition to the restrictions on sale or
 11 transfer of a license as provided in 16-4-204, no resort
 12 retail liquor license may be sold or transferred for
 13 operation at a location outside of the boundaries of the
 14 resort area.

15 (12) A resort retail liquor license shall not be
 16 subject to the quota limitations set forth in 16-4-201, and
 17 a resort retail liquor license shall be issued by the
 18 department on the basis that the department has determined
 19 that such license is justified by public convenience and
 20 necessity, following a ~~hearing~~ publication as provided
 21 required in 16-4-207."

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE HEARING REQUIREMENTS FOR THE ISSUE OR TRANSFER OF ALCOHOLIC BEVERAGE LICENSES; AMENDING SECTIONS 16-4-202 AND 16-4-207, MCA."

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2 consecutive weeks. Notice may be substantially in the following form:

NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE

Notice is hereby given that on the day of, 19.., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue, to be used at (describe location of premises where beverages are to be sold), and protests, if any there be, against the issuance of such license will-be-heard-at-the-hour-of-...-... may-be-mailed-to-...-Department-of-Revenue, Helena, Montana, on or before the day of, 19..-at-the-office-of-the-Montana-department-of-revenue--in-Helena-Montana.

Dated Signed ADMINISTRATOR

(2) Each applicant shall, at the time of filing his application, pay to the department an amount sufficient to cover the costs of publishing the notice.

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5 recreational sites by the establishment of resort areas
6 within which retail liquor licenses may be issued by the
7 department under the terms and as more particularly
8 prescribed below. In addition to the licenses as otherwise
9 set forth in [this act], the department may issue resort
10 retail liquor licenses in a resort area.

11 (2) For the purposes of this section, a resort area is
12 defined as a recreational facility meeting the
13 qualifications determined by the department as hereinafter
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16 which licenses are to be issued is a resort area, such
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21 the issuance of resort retail liquor license, must have a
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23 facilities, including land and improvements thereon, of not
24 less than \$500,000, at least half of which valuation must be
25 for a structure or structures within the resort area, and

1 must be under the sole ownership or control of one person or
2 entity at the time of the filing of the resort area plat
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4 control shall mean lands held under lease, option, or
5 permit.

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7 developer or landowner by a plat setting forth the resort
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16 the development of the area may be filed by the resort
17 developer in satisfaction of this section.

18 (6) Upon such filing the department shall forthwith
19 schedule a public hearing to be held in Helena, Montana, to
20 determine whether the facility proposed by the resort
21 developer or landowner is a resort area within the meaning
22 of the rules of the department. At least 30 days prior to
23 the date of the hearing, the department shall publish notice
24 thereof, with a description of the location of the proposed
25 resort area, in a newspaper published in the county or

1 counties in which the resort is located, once a week for 4
2 consecutive weeks. Each resort developer or landowner
3 shall, at the time of filing his application, pay to the
4 department an amount sufficient to cover the costs of said
5 publication.

6 (7) Persons may present statements to the department
7 at the hearing in person or in writing in opposition or
8 support of the plat.

9 (8) Within 30 days of the hearing, the department
10 shall accept or reject the plat. If rejected the department
11 must state its reasons and set forth the conditions, if any,
12 under which the plat will be accepted, and the decision of
13 the department may be reviewed pursuant to the review
14 procedure set forth in 16-4-406.

15 (9) Once filed with the department, the boundaries of
16 a resort may not be changed without full hearing as above
17 provided and the prior approval of the department, which
18 approval shall be according to public convenience and
19 necessity.

20 (10) (a) When the department has accepted a plat and a
21 given resort area has been determined, applications may then
22 be filed with the department by persons for the issuance of
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24 (b) Each applicant must submit plans showing the
25 location, appearance, and floor plan of the premises for

1 which application for a license is made.

2 (c) If an applicant otherwise qualifies for a resort
3 license but the premises to be licensed are still in
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5 application, the department shall issue a letter stating
6 that the license will be issued at such time as the
7 qualifications for a licensed premises have been met,
8 setting forth such time limitations and requirements as the
9 department may establish.

10 (11) In addition to the restrictions on sale or
11 transfer of a license as provided in 16-4-204, no resort
12 retail liquor license may be sold or transferred for
13 operation at a location outside of the boundaries of the
14 resort area.

15 (12) A resort retail liquor license shall not be
16 subject to the quota limitations set forth in 16-4-201, and
17 a resort retail liquor license shall be issued by the
18 department on the basis that the department has determined
19 that such license is justified by public convenience and
20 necessity, following a hearing publication as provided
21 required in 16-4-207."

-End-

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INTRODUCED BY HIRSCH, HUENNEKENS

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Dated

Signed
ADMINISTRATOR

(2) Each applicant shall, at the time of filing his application, pay to the department an amount sufficient to cover the costs of publishing the notice.

(3) If the administrator receives no protests, the department may issue or transfer the license without holding a public hearing. If, however, any protests against the issue or transfer of the license are received, the department shall hold a hearing at its office in Helena."

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 13 operation at a location outside of the boundaries of the
 14 resort area.

15 (12) A resort retail liquor license shall not be
 16 subject to the quota limitations set forth in 16-4-201, and
 17 ~~IF THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET,~~ a resort
 18 retail liquor license shall be issued by the department on
 19 the basis that the department has determined that such
 20 license is justified by public convenience and necessity,
 21 following--a--hearing, ~~publication as~~ IN ACCORDANCE WITH THE
 22 PROCEDURE provided required in 16-4-207."

-End-

March 27, 1979

PROPOSED GOVERNOR'S AMENDMENTS TO HOUSE BILL NO. 334, REFERENCE COPY,
AS FOLLOWS:

1. Page 6, line 16.

Following: "and"

Insert: "if the requirements of this section have been met,"

2. Page 6, line 20.

Following: "necessity,"

Strike: "following publication as"

Insert: "in accordance with the procedure"