

HOUSE BILL 353

IN THE HOUSE

January 24, 1979

Introduced and referred to
Committee on Local Govern-
ment.

January 29, 1979

Rereferred to Committee on
Business and Industry.

1 HOUSE BILL NO. 353
2 INTRODUCED BY Gerbe

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ADD EXCEPTIONS TO
5 THE LIQUOR LICENSE QUOTA SYSTEMS TO PROVIDE LICENSES FOR
6 CERTAIN CIVIC-TYPE GROUPS, AMENDING SECTIONS 16-4-105,
7 16-4-201, AND 16-4-501, MCA."

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

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

11 "16-4-105. Limit on retail beer licenses -- wine
12 license amendments -- off-premises consumption. (1) Except
13 as otherwise provided by law, a license to sell beer at
14 retail or beer and wine at retail, in accordance with the
15 provisions of this code and the rules of the department, may
16 be issued to any person, firm, or corporation who is
17 approved by the department as a fit and proper person, firm,
18 or corporation to sell beer, except that:

19 (a) the number of retail beer licenses that the
20 department may issue for premises situated within
21 incorporated cities and incorporated towns and within a
22 distance of 5 miles from the corporate limits of such cities
23 and towns shall be determined on the basis of population as
24 shown by the most recent official United States census
25 authorized by congress, as follows:

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

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

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

19 (b) the number of the inhabitants in such cities and
20 towns, exclusive of the number of inhabitants residing
21 within a distance of 5 miles from the corporate limits
22 thereof, shall govern the number of retail beer licenses
23 that may be issued for use within such cities and towns and
24 within a distance of 5 miles from the corporate limits
25 thereof. If two or more incorporated municipalities are

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

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

16 (d) such limitations do not prevent the issuance of a
 17 nontransferable and nonassignable retail beer license to any
 18 of the following: a post of a nationally chartered veterans'
 19 organization or a lodge of a recognized national fraternal
 20 organization ~~if such veterans' or fraternal organization has~~
 21 ~~been in existence for a period of 5 years or more prior to~~
 22 ~~January 1, 1949, a state or local veterans' organization, a~~
 23 ~~state or local fraternal organization, a country club,~~
 24 ~~church, civic group or association, or nonprofit~~
 25 ~~organization whose bylaws provide that the organizational~~

1 purpose is community service;

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

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

25 (3) A retail license to sell beer in the original

1 packages for off-premises consumption only may be issued to
 2 any person, firm, or corporation who is approved by the
 3 department as a fit and proper person, firm, or corporation
 4 to sell beer and whose premises proposed for licensing are
 5 operated as a bona fide grocery store or a drugstore
 6 licensed as a pharmacy. The number of such licenses that
 7 the department may issue is not limited by the provisions of
 8 subsection (1) of this section but shall be determined by
 9 the department in the exercise of its sound discretion, and
 10 the department may in the exercise of its sound discretion
 11 grant or deny any application for any such license or
 12 suspend or revoke any such license for cause."

13 Section 2. Section 16-4-201, MCA, is amended to read:

14 "16-4-201. All-beverages license quota. (1) Except as
 15 otherwise provided by law, a license to sell liquor, beer,
 16 and wine at retail (an all-beverages license) in accordance
 17 with the provisions of this code and the rules of the
 18 department may be issued to any person who is approved by
 19 the department as a fit and proper person to sell such
 20 beverages, except that the number of all-beverages licenses
 21 that the department may issue for premises situated within
 22 incorporated cities and incorporated towns and within a
 23 distance of 5 miles from the corporate limits of such cities
 24 and towns shall be determined on the basis of population as
 25 shown by the most recent official United States census

1 authorized by congress, as follows:

2 (a) in incorporated towns of 500 inhabitants or less
 3 and within a distance of 5 miles from the corporate limits
 4 of such towns, not more than two retail licenses;

5 (b) in incorporated cities or incorporated towns of
 6 more than 500 inhabitants and not over 3,000 inhabitants and
 7 within a distance of 5 miles from the corporate limits of
 8 such cities and towns, three retail licenses for the first
 9 1,000 inhabitants, and one retail license for each additional
 10 1,000 inhabitants;

11 (c) in incorporated cities of over 3,000 inhabitants
 12 and within a distance of 5 miles from the corporate limits
 13 thereof, five retail licenses for the first 3,000
 14 inhabitants and one retail license for each additional 1,500
 15 inhabitants.

16 (2) The number of the inhabitants in such cities and
 17 towns, exclusive of the number of inhabitants residing
 18 within a distance of 5 miles from the corporate limits
 19 thereof, shall govern the number of retail licenses that may
 20 be issued for use within such cities and towns and within a
 21 distance of 5 miles from the corporate limits thereof. If
 22 two or more incorporated municipalities are situated within
 23 a distance of 5 miles from each other, the total number of
 24 retail licenses that may be issued for use in both of such
 25 municipalities and within a distance of 5 miles from their

1 respective corporate limits shall be determined on the basis
 2 of the combined populations of both of such municipalities
 3 and may not exceed the foregoing limitations.
 4 Notwithstanding the preceding sentence, the total population
 5 for determining the quota of a city may include with the
 6 city's population the population residing outside but within
 7 5 miles of the city limits in a case where the number of
 8 persons residing outside but within 5 miles of the city
 9 exceeds the number of persons residing within the city.
 10 Such a determination may be made only upon a special census
 11 taken by the department or its agent at the expense of the
 12 applicant for a license under this section. The distance of
 13 5 miles from the corporate limits of any incorporated city
 14 or incorporated town shall be measured in a straight line
 15 from the nearest entrance of the premises proposed for
 16 licensing to the nearest corporate boundary of the city or
 17 town.

18 (3) Retail all-beverages licenses of issue on March 7,
 19 1947, and which are in excess of the foregoing limitations
 20 shall be renewable, but no new licenses may be issued in
 21 violation of such limitations.

22 (4) Such limitations do not prevent the issuance of a
 23 nontransferable and nonassignable (as to ownership only)
 24 retail license to any of the following: a post of a
 25 nationally chartered veterans' organization or any a lodge

1 of a recognized national fraternal organization ~~if such~~
 2 ~~veterans' or fraternal organization has been in existence~~
 3 ~~for a period of 5 years or more prior to January 1, 1949, a~~
 4 state or local veterans' organization, a state or local
 5 fraternal organization, a country club, church, civic group
 6 or association, or nonprofit organization whose bylaws
 7 provide that the organizational purpose is community
 8 service.

9 (5) The number of retail all-beverages licenses that
 10 the department may issue for use at premises situated
 11 outside of any incorporated city or incorporated town and
 12 outside of the area within a distance of 5 miles from the
 13 corporate limits thereof may not be more than one license
 14 for each 750 population of the county after excluding the
 15 population of incorporated cities and incorporated towns in
 16 such county.*

17 Section 3. Section 16-4-501, MCA, is amended to read:
 18 "16-4-501. License and permit fees. (1) Each beer
 19 licensee, under the provisions of this code, shall pay an
 20 annual license fee as follows:

21 (a) each brewer, wherever located, whose product is
 22 sold or offered for sale within the state, \$500; for each
 23 storage depot, \$400;

24 (b) each wholesaler, \$400;

25 (c) each beer retailer, \$200; with a wine license

1 amendment, an additional \$200;

2 (d) for a license to sell beer at retail for
3 off-premises consumption only, the same as a retail beer
4 license;

5 (e) retail beer license issued to any unit of a
6 nationally-chartered veterans' organization or church, \$50.

7 (2) The permit fee under 16-4-301(1) is computed at
8 the rate of \$15 a day for each day beer is sold at those
9 events lasting 2 or more days but in no case be less than
10 \$30.

11 (3) The permit fee under 16-4-301(2) is \$10 for the
12 sale of beer only or \$20 for the sale of all alcoholic
13 beverages.

14 (4) Passenger carrier licenses shall be issued upon
15 payment by the applicant of an annual license fee in the sum
16 of \$300.

17 (5) The annual license fee for a license to sell wine
18 on the premises, when issued as an amendment to a beer-only
19 license, is \$200.

20 (6) The annual fee for resort retail liquor licenses
21 within a given resort area shall be \$2,000 for each license.

22 (7) Each licensee licensed under the quotes of
23 16-4-201, except as provided in subsection (8), shall pay an
24 annual license fee as follows:

25 (a) except as hereinafter provided, for each license

1 outside of incorporated cities and incorporated towns or in
2 incorporated cities and incorporated towns with a population
3 of less than 2,000, \$400;

4 (b) except as hereinafter provided, for each license
5 in incorporated cities with a population of more than 2,000
6 and less than 5,000 or within a distance of 5 miles thereof,
7 measured in a straight line from the nearest entrance of the
8 premises to be licensed to the nearest boundary of such
9 city, \$500;

10 (c) except as hereinafter provided, for each license
11 in incorporated cities with a population of more than 5,000
12 and less than 10,000 or within a distance of 5 miles
13 thereof, measured in a straight line from the nearest
14 entrance of the premises to be licensed to the nearest
15 boundary of such city, \$650;

16 (d) for each license in incorporated cities with a
17 population of 10,000 or more or within a distance of 5 miles
18 thereof, measured in a straight line from the nearest
19 entrance of the premises to be licensed to the nearest
20 boundary of such city, \$800;

21 (e) the distance of 5 miles from the corporate limits
22 of any incorporated cities and incorporated towns is
23 measured in a straight line from the nearest entrance of the
24 premises to be licensed to the nearest boundary of such city
25 or town; and where the premises of the applicant to be

1 licensed are situated within 5 miles of the corporate
 2 boundaries of two or more incorporated cities or
 3 incorporated towns of different populations, the license fee
 4 chargeable by the larger incorporated city or incorporated
 5 town applies and shall be paid by the applicant. When the
 6 premises of the applicant to be licensed are situated within
 7 an incorporated town or incorporated city and any portion of
 8 the incorporated town or incorporated city is without a
 9 5-mile limit, the license fee chargeable by the smaller
 10 incorporated town or incorporated city applies and shall be
 11 paid by the applicant.

12 (f) an applicant for the issuance of an original
 13 license to be located in areas described in subsection (d)
 14 of this subsection shall pay a one-time original license fee
 15 of \$20,000 for any such license issued. The one-time license
 16 fee of \$20,000 shall not apply to any transfer or renewal of
 17 a license duly issued prior to July 1, 1974, or to those
 18 licenses approved for use under 16-4-201(4). All licenses,
 19 however, are subject to the annual renewal fee of \$400 fees.

20 (8) Each veterans' organization or church issued a
 21 retail all-beverages license under the provisions of
 22 16-4-201(4) shall pay an annual license fee as follows:

23 (a) if located outside of an incorporated city or
 24 incorporated town or in an incorporated city or incorporated
 25 town with a population of less than 2,000, \$250;

1 (b) if located in an incorporated city with a
 2 population of more than 2,000 and less than 5,000 or within
 3 a distance of 5 miles thereof, \$350;

4 (c) if located in an incorporated city with a
 5 population of more than 5,000 and less than 10,000 or within
 6 a distance of 5 miles thereof, \$500;

7 (d) if located in an incorporated city with a
 8 population of 10,000 or more or within a distance of 5 miles
 9 thereof, \$650.

10 ~~(8)(9)~~ The license fees herein provided for are
 11 exclusive of and in addition to other license fees
 12 chargeable in Montana for the sale of alcoholic beverages.*

-End-

STATE OF MONTANA

REQUEST NO. 187-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 30, 19 79, there is hereby submitted a Fiscal Note for House Bill 353 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 adds exceptions to the liquor license quota systems to provide licenses for certain civic-type groups.

ASSUMPTIONS

- 1) The increase in the number of applications for a retail beer license or an all-beverage license due to this legislation will be about 300 for FY80 and 50 for FY81.
- 2) The increase in the number of retail beer licenses and all-beverage licenses due this legislation will be approximately 200 for both FY80 and FY81.
- 3) The average annual license fee for retail beer licenses and all-beverage licenses due to this legislation will be \$500.
- 4) Administrative costs will be \$100 per application.

FISCAL IMPACT

Retail Liquor License (Effect on Proposed Legislation)	FY 80	FY 81
under current law	\$ 0	\$ 0
under proposed law	<u>100,000</u>	<u>100,000</u>
Estimated Increase	<u>\$100,000</u>	<u>\$100,000</u>
 Total Expenditures		
under current law	\$ 0	\$ 0
under proposed law	<u>30,000</u>	<u>5,000</u>
Estimated Increase	<u>\$ 30,000</u>	<u>\$ 5,000</u>
 Net Effect		
Estimated Increase	<u>\$ 70,000</u>	<u>\$ 95,000</u>

FUND INFORMATION

General Fund		
Estimated Increase	<u>\$ 70,000</u>	<u>\$ 95,000</u>

LONG-RANGE EFFECTS

The proposed legislation should increase revenues by approximately \$80,000 per year for the next few years.

Richard L. Strang
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/2/79

PREPARED BY DEPARTMENT OF REVENUE

LOCAL IMPACT

County/city general fund revenues will increase approximately \$50,000 per year.