

HOUSE BILL 545

IN THE HOUSE

February 3, 1979

Introduced and referred to  
Committee on Business and  
Industry.

February 12, 1979

Committee recommend bill,  
do not pass.

February 13, 1979

Report adopted.

1 HOUSE BILL NO. 545  
2 INTRODUCED BY Cowsey

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE  
5 FLOATING TAVERN LICENSE; AMENDING SECTION 16-4-204, MCA."

6  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Section 16-4-204, MCA, is amended to read:

9 "16-4-204. Contents of license -- posting -- privilege  
10 -- transfer -- expiration. (1) Every license issued under  
11 this part shall set forth the name of the person to whom  
12 issued, the location, by street and number or other  
13 appropriate specific description of location if no street  
14 address exists, of the premises where the business is to be  
15 carried on under said license, and such other information as  
16 the department shall deem necessary. If the licensee is a  
17 partnership or if more than one person has any interest in  
18 the business operated under the license, the names of all  
19 persons in the partnership or interested in the business  
20 must appear on the license. Every license must be posted in  
21 a conspicuous place on the premises wherein the business  
22 authorized under the license is conducted, and such license  
23 shall be exhibited upon request to any authorized  
24 representative of the department or to any peace officer of  
25 the state of Montana.

1 (2) Any license issued under the provisions of this  
2 part shall be considered a privilege personal to the  
3 licensee named in the license and shall be good until the  
4 expiration of the license unless sooner revoked or  
5 suspended.

6 (3) A license may be transferred to the executor or  
7 administrator of the estate of any deceased licensee when  
8 such estate consists in whole or in part of the business of  
9 selling liquor under a license, and in such event the  
10 license may descend or be disposed of with the business to  
11 which it is applicable under appropriate probate  
12 proceedings.

13 (4) In the event of a major loss or damage to licensed  
14 premises by unforeseen natural causes or in case of  
15 expiration of lease of the licensed premises or in the event  
16 of eviction or increase of rent by the landlord (in case of  
17 rented licensed premises) or in case of proposed removal of  
18 license to premises as substantially suited for the retail  
19 liquor business as the premises vacated, the licensee may  
20 apply to the department for a transfer of the license to  
21 different premises. The department may in its discretion  
22 permit a transfer in such cases if it appears to the  
23 department that such a transfer is required to do justice to  
24 the licensee applying for the transfer. The department  
25 shall in no event nor for any cause permit a transfer to

1 different premises where the sanitary, health, and service  
2 facilities are less satisfactory than such facilities which  
3 exist or had existed at the premises from which the transfer  
4 is proposed to be made.

5 (5) Upon a bona fide sale of the business operated  
6 under any license, the license may be transferred to a  
7 qualified purchaser. No transfer of any license as to  
8 person or location shall be effective unless and until  
9 approved by the department, and any licensee or transferee  
10 or proposed transferee who operates or attempts to operate  
11 under any supposedly transferred license prior to the  
12 approval of such transfer by the department, endorsed upon  
13 the license in writing, shall be considered as operating  
14 without a license and the license affected may be revoked or  
15 suspended by the department. The department may, within its  
16 discretion, permit a qualified purchaser to operate the  
17 business to be transferred pending final approval, providing  
18 the application for transfer has been filed with the  
19 department.

20 ~~(6) (a) A license may be transferred to a new~~  
21 ~~ownership and to a location outside the quota area for which~~  
22 ~~it was originally issued only when the following criteria~~  
23 ~~are met:~~

24 ~~(i) the total number of all beverages licenses in the~~  
25 ~~original quota area exceeded the quota for that area by at~~

1 ~~least 25% in the most recent census~~

2 ~~(ii) the total number of all beverages licenses in the~~  
3 ~~quota area to which the license would be transferred did not~~  
4 ~~exceed that area's quota by more than 25% in the most recent~~  
5 ~~census; and~~

6 ~~(iii) the department finds after a public hearing~~  
7 ~~that the public convenience and necessity would be served by~~  
8 ~~such a transfer.~~

9 ~~(b) A license transferred between quota areas under~~  
10 ~~this section may not be mortgaged or pledged as security and~~  
11 ~~may not be transferred to another person except for a~~  
12 ~~transfer by inheritance upon the death of the licensee. A~~  
13 ~~license transferred between quota areas under this section~~  
14 ~~may be held only by natural persons for the purpose of~~  
15 ~~this section; natural persons shall not include limited~~  
16 ~~partnerships or other business entities of any kind in which~~  
17 ~~each natural person is not a full participant in the~~  
18 ~~ownership and operation of the business authorized by the~~  
19 ~~license.~~

20 ~~(7)(6)~~ Except as above provided, no license shall be  
21 transferred or sold nor shall it be used for any place of  
22 business not described in the license; provided, however,  
23 that such license may be subject to mortgage and other valid  
24 liens, in which event the name of the mortgagee, upon  
25 application to and approval of the department, must be

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1 endorsed on the license.  
2 ~~(b)(7)~~ All licenses shall expire at midnight of June  
3 30 of each year."

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