

CHAPTER NO. 5.

SENATE BILL NO. 25

INTRODUCED BY GALT

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 4, 1979	Introduced and referred to Committee on Judiciary.
	On Motion Senator Galt was added as author to the Pre-Filed Bill.
January 8, 1979	Committee recommend bill do pass as amended. Report adopted.
January 9, 1979	Printed and placed on members' desks.
January 10, 1979	Second reading, do pass.
January 11, 1979	Considered correctly engrossed.
January 13, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

January 15, 1979	Introduced and referred to Committee on Judiciary.
January 19, 1979	Committee recommend bill be concurred in and placed on Consent Calendar. Report adopted.
January 22, 1979	Third reading Consent Calendar concurred in.

IN THE SENATE

January 23, 1979

Returned from second house.
Sent to enrolling.

Report correctly enrolled.

1 SENATE BILL NO. 25

2 INTRODUCED BY _____

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAW RELATING TO ALCOHOLIC BEVERAGES; AMENDING
7 SECTIONS 16-1-103, 16-1-106, 16-1-403, AND 16-6-302, MCA."8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 16-1-103, MCA, is amended to read:

11 "16-1-103. Policy as to retail sale of liquor. It is
12 hereby declared as the policy of the state that it is
13 necessary to further regulate and control the sale and
14 distribution of alcoholic beverages within the state--to
15 eliminate--certain--illegal--traffic-in-liquor--now-existing--
16 and to ensure the entire control of the sale of liquor in
17 the Montana department of revenue. It is advisable and
18 necessary, in addition to the operation of the state liquor
19 stores now provided by law, that the department be empowered
20 and authorized to grant licenses to persons qualified under
21 this code to sell liquor purchased by them at state liquor
22 stores at retail posted price in accordance with this code
23 and under rules promulgated by the department and under its
24 strict supervision and control and to provide severe penalty
25 for the sale of liquor except by and in state liquor stores1 and by persons licensed under this code. The restrictions,
2 regulations, and provisions contained in this code are
3 enacted by the legislature for the protection, health,
4 welfare, and safety of the people of the state."5 Section 2. Section 16-1-106, MCA, is amended to read:
6 "16-1-106. Definitions. As used in this code, the
7 following definitions apply:8 (1) "Agency agreement" means an agreement between the
9 department and a person appointed to sell liquor as a
10 commission merchant rather than as an employee.11 (2) "Alcohol" means ethyl alcohol, also called
12 ethanol, or the hydrated oxide of ethyl.13 (3) "Alcoholic beverage" means a compound produced and
14 sold for human consumption as a drink that contains more
15 than .5% of alcohol by volume.16 (4) "Beer" means a malt beverage containing not more
17 than 7% of alcohol by weight.18 (5) "Brewer" means a person who produces malt
19 beverages.20 (6) "Department" means the Montana department of
21 revenue.22 (7) "Immediate family" means a spouse, dependent
23 children, or dependent parents.24 (8) "Industrial use" means a use described as
25 industrial use by the federal Alcohol Administration Act and

1 the federal rules and regulations of 27 CFR.

2 (9) "Liquor" means an alcoholic beverage except beer.

3 (10) "Malt beverage" means an alcoholic beverage made by
4 the fermentation of an infusion or decoction, or a
5 combination of both, in potable brewing water, of malted
6 barley with or without hops or their parts or their products
7 and with or without other malted cereals and with or without
8 the addition of unmalted or prepared cereals, other
9 carbohydrates, or products prepared therefrom and with or
10 without other wholesome products suitable for human food
11 consumption.

12 (11) "Package" means a container or receptacle used for
13 holding an alcoholic beverage.

14 (12) "Posted price" means the retail price of liquor as
15 fixed and determined by the department and in addition
16 thereto an excise and license tax as provided in this code.

17 (13) "Proof gallon" means a U.S. gallon of liquor at 60
18 degrees on the Fahrenheit scale that contains 50% of alcohol
19 by volume.

20 (14) "Public place" means a place, building, or
21 conveyance to which the public has or may be permitted to
22 have access and any place of public resort.

23 ~~(15) "Residence" means a building, part of a building,
24 or tent where a person resides but does not include any part
25 of a building that is not necessarily and exclusively used as a~~

1 **private-residence**

2 ~~(16) "Rules" means rules published by the
3 department pursuant to this code.~~

4 ~~(17) "State liquor facility" means a facility owned
5 or under control of the department for the purpose of
6 receiving, storing, transporting, or selling alcoholic
7 beverages.~~

8 ~~(18) "State liquor store" means a retail store
9 operated by the department in accordance with this code for
10 the purpose of selling liquor.~~

11 ~~(19) "Storage depot" means a building or structure
12 owned or operated by a brewer at any point in the state of
13 Montana off and away from the premises of a brewery, and
14 which structure is equipped with refrigeration or cooling
15 apparatus for the storage of beer and from which a brewer
16 may sell or distribute beer as permitted by this code.~~

17 ~~(20) "Warehouse" means a building or structure
18 owned or operated by a licensed wholesaler for the
19 receiving, storage, and distribution of beer as permitted by
20 this code.~~

21 ~~(21) "Wine" means an alcoholic beverage made from
22 the normal alcoholic fermentation of the juice of sound,
23 ripe fruit or other agricultural products without addition
24 or abstraction, except as may occur in the usual cellar
25 treatment of clarifying and aging, and that contains not~~

1 less than 7% or more than 24% of alcohol by volume. wine
 2 may be ameliorated to correct natural deficiencies,
 3 sweetened, and fortified in accordance with applicable
 4 federal regulations and the customs and practices of the
 5 industry. Other alcoholic beverages not defined as above
 6 but made in the manner of wine and labeled and sold as wine
 7 in accordance with federal regulations are also wine."

8 Section 3. Section 16-1-403, MCA, is amended to read:
 9 "16-1-403. Excise tax accounting methods -- report
 10 forms. (1) The method provided in 16-1-402 shall be presumed
 11 to determine fairly and correctly the liquor purchased
 12 outside this state and sold for consumption within this
 13 state. Any carrier aggrieved by the application of such the
 14 method may petition the department for use of some other
 15 method. Thereupon, if the department finds that the
 16 application of such the method will be unjust to the
 17 carrier, it may allow the use of the method petitioned for
 18 by the ~~airline~~ carrier or may use such other method as will
 19 fairly reflect the liquor purchased outside this state and
 20 served for consumption within this state.

21 (2) The department shall prescribe report forms which
 22 shall be used by the carriers in reporting their sales and
 23 computing their liability for excise taxes and markup.
 24 Report forms shall be filed and payment of excise taxes and
 25 state markup shall be made on a quarterly basis. The filing

1 of report forms and payment of excise taxes and state markup
 2 shall be made not later than the last day of the month
 3 immediately following the close of each quarterly period."

4 Section 4. Section 16-6-302, MCA, is amended to read:
 5 "16-6-302. Penalty for sale of alcoholic beverage
 6 without license. Any person who has not been issued a
 7 license under this code who ~~shall--sell~~ sells or keep keeps
 8 for sale any alcoholic beverage ~~shall--be~~ is guilty of a
 9 felony and upon conviction thereof ~~shall--be--fined~~ is
 10 punishable by a fine of not less than \$1,000 or more than
 11 \$5,000 or be-imprisoned by imprisonment in the state prison
 12 for not less than 1 or more than 5 years or by both such
 13 fine and imprisonment."

14 Section 5. Section 16-10-102, MCA, is amended to read:
 15 "16-10-102. Declaration of policy. ~~It--is--hereby~~
 16 ~~decreed--that--the~~ I advertising, offering for sale, or
 17 sale of cigarettes below cost in the retail and wholesale
 18 trades with the intent of injuring competitors or lessening
 19 competition is an unfair and deceptive business practice. It
 20 is ~~hereby-decreed-to-be~~ the policy of the state to promote
 21 the public welfare, and it is the purpose of this ~~act~~
 22 chapter to carry out that policy in the public interest,
 23 stabilize the sale of cigarettes, and maximize and protect
 24 the state revenues from this source."

-End-

SENATE MEMBERS

CARROLL GRAHAM
CHAIRMAN

FRANK HAZELBAKER
VICE CHAIRMAN

CHIEF BLAYLOCK

PAT M. GOODOVER

DIANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER

ELEANOR LCK
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES

**HOUSE MEMBERS**

JOHN B. DRISCOLL

OSCAR KVAALEN

J.D. LYNCH

ROBERT L. MARKS

H. DAVID COGLEY
DIRECTOR, LEGAL SERVICES

ROBERT PERSON
DIRECTOR, RESEARCH

Montana Legislative Council

State Capitol

Helena, 59601

(406) 449-3064

LC0044

1979 Legislature
Code Commissioner Bill - Summary

SENATE Bill No. 25

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO
ALCOHOLIC BEVERAGES.

(This summary does not include discussion of routine form or
grammatical changes.)

Section 1. 16-1-103. Deleted obsolete language in
first sentence.

Section 2. 16-1-106. Deleted definition of "residence"
as the term is not used in the alcoholic beverages code.

Section 3. 16-1-403. The term "carrier" is used con-
sistently throughout the section except for one instance.
Amendment will make all terminology consistent.

Section 4. 16-6-302. Grammatical change.

Section 5. 16-10-102. Changes "act" to "chapter" to
change a reference that was overlooked during recodification.

Approved by Committee
on Judiciary

1 SENATE BILL NO. 25
2 INTRODUCED BY GALT
3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE--~~THE~~ LAW TITLE 16, MCA, RELATING TO ~~ALCOHOLIC~~
7 BEVERAGES ALCOHOL AND TOBACCO; AMENDING SECTIONS 16-1-103,
8 16-1-106, 16-1-403, AND 16-6-302, AND 16-10-102, MCA."

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

11 Section 1. Section 16-1-103, MCA, is amended to read:
12 "16-1-103. Policy as to retail sale of liquor. It is
13 hereby declared--as the policy of the state that it is
14 necessary to further regulate and control the sale and
15 distribution of alcoholic beverages within the state--to
16 eliminate--certain--illegal--traffic-in--liquor--now-existing--
17 and to ensure the entire control of the sale of liquor in
18 the Montana department of revenue. It is advisable and
19 necessary, in addition to the operation of the state liquor
20 stores now provided by law, that the department be empowered
21 and authorized to grant licenses to persons qualified under
22 this code to sell liquor purchased by them at state liquor
23 stores at retail posted price in accordance with this code
24 and under rules promulgated by the department and under its
25 strict supervision and control and to provide severe penalty

1 for the sale of liquor except by and in state liquor stores
2 and by persons licensed under this code. The restrictions,
3 regulations, and provisions contained in this code are
4 enacted by the legislature for the protection, health,
5 welfare, and safety of the people of the state."

6 Section 2. Section 16-1-106, MCA, is amended to read:
7 "16-1-106. Definitions. As used in this code, the
8 following definitions apply:

9 (1) "Agency agreement" means an agreement between the
10 department and a person appointed to sell liquor as a
11 commission merchant rather than as an employee.

12 (2) "Alcohol" means ethyl alcohol, also called
13 ethanol, or the hydrated oxide of ethyl.

14 (3) "Alcoholic beverage" means a compound produced and
15 sold for human consumption as a drink that contains more
16 than .5% of alcohol by volume.

17 (4) "Beer" means a malt beverage containing not more
18 than 7% of alcohol by weight.

19 (5) "Brewer" means a person who produces malt
20 beverages.

21 (6) "Department" means the Montana department of
22 revenue.

23 (7) "Immediate family" means a spouse, dependent
24 children, or dependent parents.

25 (8) "Industrial use" means a use described as

-2- SECOND READING SB 25

1 industrial use by the federal Alcohol Administration Act and
 2 the federal rules and regulations of 27 CFR.

3 (9) "Liquor" means an alcoholic beverage except beer.

4 (10) "Malt beverage" means an alcoholic beverage made by
 5 the fermentation of an infusion or decoction, or a
 6 combination of both, in potable brewing water, of malted
 7 barley with or without hops or their parts or their products
 8 and with or without other malted cereals and with or without
 9 the addition of unmalted or prepared cereals, other
 10 carbohydrates, or products prepared therefrom and with or
 11 without other wholesome products suitable for human food
 12 consumption.

13 (11) "Package" means a container or receptacle used for
 14 holding an alcoholic beverage.

15 (12) "Posted price" means the retail price of liquor as
 16 fixed and determined by the department and in addition
 17 thereto an excise and license tax as provided in this code.

18 (13) "Proof gallon" means a U.S. gallon of liquor at 60
 19 degrees on the Fahrenheit scale that contains 50% of alcohol
 20 by volume.

21 (14) "Public place" means a place, building, or
 22 conveyance to which the public has or may be permitted to
 23 have access and any place of public resort.

24 ~~(15) "Residence" means a building, part of a building,
 25 or tent where a person resides but does not include any part~~

1 ~~of a building that is not actually and exclusively used as a
 2 private residence~~

3 ~~(16) "Rules" means rules published by the
 4 department pursuant to this code.~~

5 ~~(17) "State liquor facility" means a facility owned
 6 or under control of the department for the purpose of
 7 receiving, storing, transporting, or selling alcoholic
 8 beverages.~~

9 ~~(18) "State liquor store" means a retail store
 10 operated by the department in accordance with this code for
 11 the purpose of selling liquor.~~

12 ~~(19) "Storage depot" means a building or structure
 13 owned or operated by a brewer at any point in the state of
 14 Montana off and away from the premises of a brewery, and
 15 which structure is equipped with refrigeration or cooling
 16 apparatus for the storage of beer and from which a brewer
 17 may sell or distribute beer as permitted by this code.~~

18 ~~(20) "Warehouse" means a building or structure
 19 owned or operated by a licensed wholesaler for the
 20 receiving, storage, and distribution of beer as permitted by
 21 this code.~~

22 ~~(21) "Wine" means an alcoholic beverage made from
 23 the normal alcoholic fermentation of the juice of sound,
 24 ripe fruit or other agricultural products without addition
 25 or abstraction, except as may occur in the usual cellar~~

1 treatment of clarifying and aging, and that contains not
 2 less than 7% or more than 24% of alcohol by volume. Wine
 3 may be ameliorated to correct natural deficiencies,
 4 sweetened, and fortified in accordance with applicable
 5 federal regulations and the customs and practices of the
 6 industry. Other alcoholic beverages not defined as above
 7 but made in the manner of wine and labeled and sold as wine
 8 in accordance with federal regulations are also wine."

9 Section 3. Section 16-1-403, MCA, is amended to read:

10 "16-1-403. Excise tax accounting methods -- report
 11 forms. (1) The method provided in 16-1-402 shall be presumed
 12 to determine fairly and correctly the liquor purchased
 13 outside this state and sold for consumption within this
 14 state. Any carrier aggrieved by the application of ~~such the~~ the
 15 method may petition the department for use of some other
 16 method. Thereupon, if the department finds that the
 17 application of ~~such the~~ method will be unjust to the
 18 carrier, it may allow the use of the method petitioned for
 19 by the ~~airline~~ carrier or may use such other method as will
 20 fairly reflect the liquor purchased outside this state and
 21 served for consumption within this state.

22 (2) The department shall prescribe report forms which
 23 shall be used by the carriers in reporting their sales and
 24 computing their liability for excise taxes and markup.
 25 Report forms shall be filed and payment of excise taxes and

1 state markup shall be made on a quarterly basis. The filing
 2 of report forms and payment of excise taxes and state markup
 3 shall be made not later than the last day of the month
 4 immediately following the close of each quarterly period."

5 Section 4. Section 16-6-302, MCA, is amended to read:
 6 "16-6-302. Penalty for sale of alcoholic beverage
 7 without license. Any person who has not been issued a
 8 license under this code who ~~shall-sett sells~~ or keep ~~keeps~~
 9 for sale any alcoholic beverage ~~shall-be~~ is guilty of a
 10 felony and upon conviction thereof ~~shall--be--fined~~ is
 11 ~~punishable by a fine of not less than \$1,000 or more than~~
 12 \$5,000 or be-imprisoned by imprisonment in the state prison
 13 for not less than 1 or more than 5 years or by both such
 14 fine and imprisonment."

15 Section 5. Section 16-10-102, MCA, is amended to read:
 16 "16-10-102. Declaration of policy. ~~It--is--hereby~~
 17 ~~decreed--that--the~~ ~~The~~ advertising, offering for sale, or
 18 sale of cigarettes below cost in the retail and wholesale
 19 trades with the intent of injuring competitors or lessening
 20 competition is an unfair and deceptive business practice. It
 21 is hereby-declared-to-be the policy of the state to promote
 22 the public welfare, and it is the purpose of this act
 23 ~~chapter~~ to carry out that policy in the public interest,
 24 stabilize the sale of cigarettes, and maximize and protect
 25 the state revenues from this source."

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE--THE LAW TITLE 16, MCA, RELATING TO ALCOHOLIC
7 BEVERAGES, ALCOHOL AND TOBACCO; AMENDING SECTIONS 16-1-103,
8 16-1-106, 16-1-403, AND 16-6-302, AND 16-10-102, MCA."

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

11 Section 1. Section 16-1-103, MCA, is amended to read:
12 "16-1-103. Policy as to retail sale of liquor. It is
13 hereby declared as the policy of the state that it is
14 necessary to further regulate and control the sale and
15 distribution of alcoholic beverages within the state--to
16 eliminate--certain--it is to be--in liquor now existing
17 and to ensure the entire control of the sale of liquor in
18 the Montana department of revenue. It is advisable and
19 necessary, in addition to the operation of the state liquor
20 stores now provided by law, that the department be empowered
21 and authorized to grant licenses to persons qualified under
22 this code to sell liquor purchased by them at state liquor
23 stores at retail posted price in accordance with this code
24 and under rules promulgated by the department and under its
25 strict supervision and control and to provide severe penalty

1 for the sale of liquor except by and in state liquor stores
2 and by persons licensed under this code. The restrictions,
3 regulations, and provisions contained in this code are
4 enacted by the legislature for the protection, health,
5 welfare, and safety of the people of the state."

6 Section 2. Section 16-1-106, MCA, is amended to read:
7 "16-1-106. Definitions. As used in this code, the
8 following definitions apply:

9 (1) "Agency agreement" means an agreement between the
10 department and a person appointed to sell liquor as a
11 commission merchant rather than as an employee.

12 (2) "Alcohol" means ethyl alcohol, also called
13 ethanol, or the hydrated oxide of ethyl.

14 (3) "Alcoholic beverage" means a compound produced and
15 sold for human consumption as a drink that contains more
16 than .5% of alcohol by volume.

17 (4) "Beer" means a malt beverage containing not more
18 than 7% of alcohol by weight.

19 (5) "Brewer" means a person who produces malt
20 beverages.

21 (6) "Department" means the Montana department of
22 revenue.

23 (7) "Immediate family" means a spouse, dependent
24 children, or dependent parents.

25 (8) "Industrial use" means a use described as

1 industrial use by the federal Alcohol Administration Act and
 2 the federal rules and regulations of 27 CFR.

3 (9) "Liquor" means an alcoholic beverage except beer.

4 (10) "Malt beverage" means an alcoholic beverage made by
 5 the fermentation of an infusion or decoction, or a
 6 combination of both, in potable brewing water, of malted
 7 barley with or without hops or their parts or their products
 8 and with or without other malted cereals and with or without
 9 the addition of unmalted or prepared cereals, other
 10 carbohydrates, or products prepared therefrom and with or
 11 without other wholesome products suitable for human food
 12 consumption.

13 (11) "Package" means a container or receptacle used for
 14 holding an alcoholic beverage.

15 (12) "Posted price" means the retail price of liquor as
 16 fixed and determined by the department and in addition
 17 thereto an excise and license tax as provided in this code.

18 (13) "Proof gallon" means a U.S. gallon of liquor at 60
 19 degrees on the Fahrenheit scale that contains 50% of alcohol
 20 by volume.

21 (14) "Public place" means a place, building, or
 22 conveyance to which the public has or may be permitted to
 23 have access and any place of public resort.

24 ~~15) "Residence" means a building, part of a building,
 25 or tent where a person resides but does not include any part~~

1 ~~of a building that is not actually and exclusively used as a
 2 private residence.~~

3 ~~16) "Rules" means rules published by the
 4 department pursuant to this code.~~

5 ~~17) "State liquor facility" means a facility owned
 6 or under control of the department for the purpose of
 7 receiving, storing, transporting, or selling alcoholic
 8 beverages.~~

9 ~~18) "State liquor store" means a retail store
 10 operated by the department in accordance with this code for
 11 the purpose of selling liquor.~~

12 ~~19) "Storage depot" means a building or structure
 13 owned or operated by a brewer at any point in the state of
 14 Montana off and away from the premises of a brewery, and
 15 which structure is equipped with refrigeration or cooling
 16 apparatus for the storage of beer and from which a brewer
 17 may sell or distribute beer as permitted by this code.~~

18 ~~20) "Warehouse" means a building or structure
 19 owned or operated by a licensed wholesaler for the
 20 receiving, storage, and distribution of beer as permitted by
 21 this code.~~

22 ~~21) "Wine" means an alcoholic beverage made from
 23 the normal alcoholic fermentation of the juice of sound,
 24 ripe fruit or other agricultural products without addition
 25 or abstraction, except as may occur in the usual cellar~~

1 treatment of clarifying and aging, and that contains not
 2 less than 7% or more than 24% of alcohol by volume. Wine
 3 may be ameliorated to correct natural deficiencies,
 4 sweetened, and fortified in accordance with applicable
 5 federal regulations and the customs and practices of the
 6 industry. Other alcoholic beverages not defined as above
 7 but made in the manner of wine and labeled and sold as wine
 8 in accordance with federal regulations are also wine."

9 Section 3. Section 16-1-403, MCA, is amended to read:
 10 "16-1-403. Excise tax accounting methods -- report
 11 forms. (1) The method provided in 16-1-402 shall be presumed
 12 to determine fairly and correctly the liquor purchased
 13 outside this state and sold for consumption within this
 14 state. Any carrier aggrieved by the application of such the
 15 method may petition the department for use of some other
 16 method. Thereupon, if the department finds that the
 17 application of such the method will be unjust to the
 18 carrier, it may allow the use of the method petitioned for
 19 by the ~~airline carrier~~ or may use such other method as will
 20 fairly reflect the liquor purchased outside this state and
 21 served for consumption within this state.

22 (2) The department shall prescribe report forms which
 23 shall be used by the carriers in reporting their sales and
 24 computing their liability for excise taxes and markup.
 25 Report forms shall be filed and payment of excise taxes and

1 state markup shall be made on a quarterly basis. The filing
 2 of report forms and payment of excise taxes and state markup
 3 shall be made not later than the last day of the month
 4 immediately following the close of each quarterly period."

5 Section 4. Section 16-6-302, MCA, is amended to read:
 6 "16-6-302. Penalty for sale of alcoholic beverage
 7 without license. Any person who has not been issued a
 8 license under this code who ~~shall--sell~~ sells or keep keeps
 9 for sale any alcoholic beverage ~~shall--be~~ is guilty of a
 10 felony and upon conviction thereof ~~shall--be--fined~~ is
 11 ~~punishable by a fine of not less than \$1,000 or more than~~
 12 ~~\$5,000 or be-imprisoned by imprisonment~~ in the state prison
 13 for not less than 1 or more than 5 years or ~~by~~ both such
 14 fine and imprisonment."

15 Section 5. Section 16-10-102, MCA, is amended to read:
 16 "16-10-102. Declaration of policy. ~~It--is--hereby~~
 17 ~~declared--that--the~~ The advertising, offering for sale, or
 18 sale of cigarettes below cost in the retail and wholesale
 19 trades with the intent of injuring competitors or lessening
 20 competition is an unfair and deceptive business practice. It
 21 is hereby-declared-to-be the policy of the state to promote
 22 the public welfare, and it is the purpose of this act
 23 ~~chapter~~ to carry out that policy in the public interest,
 24 stabilize the sale of cigarettes, and maximize and protect
 25 the state revenues from this source."

-End-
 -6-

1 SENATE BILL NO. 25

2 INTRODUCED BY GALT

3 BY REQUEST OF THE CODE COMMISSIONER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAW ~~TITLE 16, MCA~~ RELATING TO ~~ALCOHOLIC~~
7 BEVERAGES ~~ALCOHOL AND TOBACCO~~; AMENDING SECTIONS 16-1-103,
8 16-1-106, 16-1-403, AND 16-6-302, ~~AND 16-10-102~~ MCA."

9

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

11 Section 1. Section 16-1-103, MCA, is amended to read:
12 "16-1-103. Policy as to retail sale of liquor. It is
13 hereby declared as the policy of the state that it is
14 necessary to further regulate and control the sale and
15 distribution of alcoholic beverages within the state--to
16 eliminate--certain--illegal--traffic-in--liquor--now--existing--
17 and to ensure the entire control of the sale of liquor in
18 the Montana department of revenue. It is advisable and
19 necessary, in addition to the operation of the state liquor
20 stores now provided by law, that the department be empowered
21 and authorized to grant licenses to persons qualified under
22 this code to sell liquor purchased by them at state liquor
23 stores at retail posted price in accordance with this code
24 and under rules promulgated by the department and under its
25 strict supervision and control and to provide severe penalty1 for the sale of liquor except by and in state liquor stores
2 and by persons licensed under this code. The restrictions,
3 regulations, and provisions contained in this code are
4 enacted by the legislature for the protection, health,
5 welfare, and safety of the people of the state."6 Section 2. Section 16-1-106, MCA, is amended to read:
7 "16-1-106. Definitions. As used in this code, the
8 following definitions apply:9 (1) "Agency agreement" means an agreement between the
10 department and a person appointed to sell liquor as a
11 commission merchant rather than as an employee.12 (2) "Alcohol" means ethyl alcohol, also called
13 ethanol, or the hydrated oxide of ethyl.14 (3) "Alcoholic beverage" means a compound produced and
15 sold for human consumption as a drink that contains more
16 than .5% of alcohol by volume.17 (4) "Beer" means a malt beverage containing not more
18 than 7% of alcohol by weight.19 (5) "Brewer" means a person who produces malt
20 beverages.21 (6) "Department" means the Montana department of
22 revenue.23 (7) "Immediate family" means a spouse, dependent
24 children, or dependent parents.

25 (8) "Industrial use" means a use described as

1 industrial use by the federal Alcohol Administration Act and
 2 the federal rules and regulations of 27 CFR.

3 (9) "Liquor" means an alcoholic beverage except beer.
 4 (10) "Malt beverage" means an alcoholic beverage made by
 5 the fermentation of an infusion or decoction, or a
 6 combination of both, in potable brewing water, of malted
 7 barley with or without hops or their parts or their products
 8 and with or without other malted cereals and with or without
 9 the addition of unmalted or prepared cereals, other
 10 carbohydrates, or products prepared therefrom and with or
 11 without other wholesome products suitable for human food
 12 consumption.

13 (11) "Package" means a container or receptacle used for
 14 holding an alcoholic beverage.

15 (12) "Posted price" means the retail price of liquor as
 16 fixed and determined by the department and in addition
 17 thereto an excise and license tax as provided in this code.

18 (13) "Proof gallon" means a U.S. gallon of liquor at 60
 19 degrees on the Fahrenheit scale that contains 50% of alcohol
 20 by volume.

21 (14) "Public place" means a place, building, or
 22 conveyance to which the public has or may be permitted to
 23 have access and any place of public resort.

24 ~~(15) "Residence" means a building, part of a building,
 25 or tent where a person resides but does not include any part~~

1 ~~of a building that is not actually and exclusively used as a
 2 private residence~~

3 ~~(16) "Rules" means rules published by the
 4 department pursuant to this code.~~

5 ~~(17) "State liquor facility" means a facility owned
 6 or under control of the department for the purpose of
 7 receiving, storing, transporting, or selling alcoholic
 8 beverages.~~

9 ~~(18) "State liquor store" means a retail store
 10 operated by the department in accordance with this code for
 11 the purpose of selling liquor.~~

12 ~~(19) "Storage depot" means a building or structure
 13 owned or operated by a brewer at any point in the state of
 14 Montana off and away from the premises of a brewery, and
 15 which structure is equipped with refrigeration or cooling
 16 apparatus for the storage of beer and from which a brewer
 17 may sell or distribute beer as permitted by this code.~~

18 ~~(20) "Warehouse" means a building or structure
 19 owned or operated by a licensed wholesaler for the
 20 receiving, storage, and distribution of beer as permitted by
 21 this code.~~

22 ~~(21) "Wine" means an alcoholic beverage made from
 23 the normal alcoholic fermentation of the juice of sound,
 24 ripe fruit or other agricultural products without addition
 25 or abstraction, except as may occur in the usual cellar~~

1 treatment of clarifying and aging, and that contains not
 2 less than 7% or more than 24% of alcohol by volume. Wine
 3 may be ameliorated to correct natural deficiencies,
 4 sweetened, and fortified in accordance with applicable
 5 federal regulations and the customs and practices of the
 6 industry. Other alcoholic beverages not defined as above
 7 but made in the manner of wine and labeled and sold as wine
 8 in accordance with federal regulations are also wine."

9 Section 3. Section 16-1-403, MCA, is amended to read:
 10 "16-1-403. Excise tax accounting methods -- report
 11 forms. (1) The method provided in 16-1-402 shall be presumed
 12 to determine fairly and correctly the liquor purchased
 13 outside this state and sold for consumption within this
 14 state. Any carrier aggrieved by the application of such the
 15 method may petition the department for use of some other
 16 method. Thereupon, if the department finds that the
 17 application of such the method will be unjust to the
 18 carrier, it may allow the use of the method petitioned for
 19 by the airline carrier or may use such other method as will
 20 fairly reflect the liquor purchased outside this state and
 21 served for consumption within this state.

22 (2) The department shall prescribe report forms which
 23 shall be used by the carriers in reporting their sales and
 24 computing their liability for excise taxes and markup.
 25 Report forms shall be filed and payment of excise taxes and

1 state markup shall be made on a quarterly basis. The filing
 2 of report forms and payment of excise taxes and state markup
 3 shall be made not later than the last day of the month
 4 immediately following the close of each quarterly period."

5 Section 4. Section 16-6-302, MCA, is amended to read:
 6 "16-6-302. Penalty for sale of alcoholic beverage
 7 without license. Any person who has not been issued a
 8 license under this code who shall--sell or keep keeps
 9 for sale any alcoholic beverage shall be guilty of a
 10 felony and upon conviction thereof shall--be--fined is
 11 punishable by a fine of not less than \$1,000 or more than
 12 \$5,000 or be--imprisoned by imprisonment in the state prison
 13 for not less than 1 or more than 5 years or by both such
 14 fine and imprisonment."

15 Section 5. Section 16-10-102, MCA, is amended to read:
 16 "16-10-102. Declaration of policy. It--is--hereby
 17 declared--that--the The advertising, offering for sale, or
 18 sale of cigarettes below cost in the retail and wholesale
 19 trades with the intent of injuring competitors or lessening
 20 competition is an unfair and deceptive business practice. It
 21 is hereby--declared--to--be the policy of the state to promote
 22 the public welfare, and it is the purpose of this act
 23 chapter to carry out that policy in the public interest,
 24 stabilize the sale of cigarettes, and maximize and protect
 25 the state revenues from this source."

-End-

January 8, 1979

STANDING COMMITTEE REPORT

That Senate Bill No. 25 be amended as follows:

1. Title, line 6
Strike: "THE LAW"
Insert: "TITLE 16, MCA,"

Strike: "ALCOHOLIC BEVERAGES"
Insert: "ALCOHOL AND TOBACCO"
2. Title, line 7
Strike: "AND"
Following "16-6-302,"
Insert: "AND 16-10-102,"