

SENATE BILL 359

IN THE SENATE

February 3, 1979	Introduced and referred to Committee on Taxation.
February 6, 1979	Fiscal note requested.
February 7, 1979	Rereferred to Committee on Business and Industry.
February 9, 1979	Fiscal note returned.
February 15, 1979	Committee recommend bill, do not pass, as amended.

1 *Senate* BILL NO. *359*
 2 INTRODUCED BY *James Gustafson, Michele Conover*
 3 *Playford / LOCKREM*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LIQUOR
 5 AND BEER LICENSE SYSTEMS IN THE STATE OF MONTANA AND PROVIDE
 6 NEW LICENSING SYSTEMS, AND TO REIMBURSE EXISTING LICENSEES
 7 FOR LOSS OF PROPERTY; AMENDING SECTIONS 16-4-206 AND
 8 16-4-501, MCA; AND REPEALING SECTIONS 16-4-105 AND 16-4-201
 9 THROUGH 16-4-203, MCA."

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

12 NEW SECTION. Section 1. On- and off-premises retail
 13 beer licenses. Except as otherwise provided by law, a
 14 license to sell beer at retail for consumption on- or
 15 off-premises, in accordance with the provisions of this code
 16 and the rules of the department, may be issued to any
 17 person, association, organization, firm, or corporation that
 18 is approved by the department as a fit and proper person,
 19 association, organization, firm, or corporation to sell
 20 beer.

21 NEW SECTION. Section 2. Wine license amendments. A
 22 person, association, organization, firm, or corporation
 23 holding a license to sell beer for consumption on the
 24 premises at retail under [section 1] may apply to the
 25 department for an amendment to the license permitting the

1 holder to sell wine as well as beer. The department may
 2 issue the amendment if it finds, on a satisfactory showing
 3 by the applicant, that the sale of wine for consumption on
 4 the premises would be supplementary to a restaurant or
 5 prepared-food business. A person, association, organization,
 6 firm, or corporation holding a beer license under [section
 7 1] with a wine amendment may sell wine for consumption on
 8 the premises. Nonretention of the beer license, for whatever
 9 reason, means automatic loss of the wine amendment license.

10 NEW SECTION. Section 3. Off-premises retail beer and
 11 table wine license. A retail license to sell beer or table
 12 wine, or both, in the original packages for off-premises
 13 consumption only, may be issued to any person, association,
 14 organization, firm, or corporation that is approved by the
 15 department as a fit and proper person, association,
 16 organization, firm, or corporation to sell beer or table
 17 wine, or both, and whose premises proposed for licensing are
 18 a store at a fixed location possessing and displaying a
 19 Montana retail store license as provided by Title 15,
 20 chapter 57, part 1. The license shall be issued by the
 21 department in the exercise of its sound discretion, and the
 22 department may in the exercise of its sound discretion grant
 23 or deny any application for any such license or suspend or
 24 revoke any such license for cause.

25 NEW SECTION. Section 4. All-beverages license. Except

1 as otherwise provided by law, a license to sell liquor,
 2 beer, and wine at retail (an all-beverages license) in
 3 accordance with the provisions of this code and the rules of
 4 the department may be issued to any person, association,
 5 organization, firm, or corporation that is approved by the
 6 department as a fit and proper person, association,
 7 organization, firm, or corporation to sell such beverages.

8 NEW SECTION. Section 5. Renewal of certain licenses.
 9 A license issued under former 16-4-105, 16-4-201, or
 10 16-4-202 prior to July 1, 1979, may be converted to a
 11 comparable license under [sections 1 through 4], which is
 12 renewable on an annual basis in accordance with the
 13 provisions of this code.

14 Section 6. Section 16-4-206, MCA, is amended to read:

15 "16-4-206. Application for all-beverages license --
 16 penalty for false statements. (1) Prior to the issuance of
 17 an all-beverages license as provided in ~~16-4-201~~ [section
 18 4], the applicant shall file with the department an
 19 application in writing, signed by the applicant and
 20 containing such information and statements relative to the
 21 applicant and the premises where the alcoholic beverage is
 22 to be sold as may be required by the department.

23 (2) The application shall be verified by the affidavit
 24 of the person making the same before a person authorized to
 25 administer oaths. If any false statement is made in any

1 part of the application, the applicant or applicants are
 2 guilty of a misdemeanor, and upon conviction thereof the
 3 license, if issued, shall be revoked and the applicant or
 4 applicants subjected to the penalties provided by law."

5 Section 7. Section 16-4-501, MCA, is amended to read:

6 "16-4-501. License and permit fees. (1) Each beer
 7 licensee, under the provisions of this code, shall pay an
 8 annual license fee as follows:

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

12 (b) each wholesaler, \$400;

13 (c) each beer retailer, \$200; with a wine license
 14 amendment, an additional \$200;

15 (d) for a license to sell beer at retail for
 16 off-premises consumption only, the same as a retail beer
 17 license;

18 (e) for a retail beer license issued to any unit of a
 19 nationally chartered veterans' organization, \$50.

20 (2) The permit fee under 16-4-301(1) is computed at
 21 the rate of \$15 a day for each day beer is sold at those
 22 events lasting 2 or more days but in no case be less than
 23 \$30.

24 (3) The permit fee under 16-4-301(2) is \$10 for the
 25 sale of beer only or \$20 for the sale of all alcoholic

1 beverages.

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

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

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

10 ~~(7)(b) Each licensee licensed under the quotes of~~
11 ~~16-4-201 for all beverages retail sales shall pay an annual~~
12 license fee as follows:

13 (a) except as hereinafter provided, for each license
14 outside of incorporated cities and incorporated towns or in
15 incorporated cities and incorporated towns with a population
16 of less than 2,000, \$400;

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

23 (c) except as hereinafter provided, for each license
24 in incorporated cities with a population of more than 5,000
25 and less than 10,000 or within a distance of 5 miles

1 thereof, measured in a straight line from the nearest
2 entrance of the premises to be licensed to the nearest
3 boundary of such city, \$650;

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

9 (e) the distance of 5 miles from the corporate limits
10 of any incorporated cities and incorporated towns is
11 measured in a straight line from the nearest entrance of the
12 premises to be licensed to the nearest boundary of such city
13 or town; and where the premises of the applicant to be
14 licensed are situated within 5 miles of the corporate
15 boundaries of two or more incorporated cities or
16 incorporated towns of different populations, the license fee
17 chargeable by the larger incorporated city or incorporated
18 town applies and shall be paid by the applicant. When the
19 premises of the applicant to be licensed are situated within
20 an incorporated town or incorporated city and any portion of
21 the incorporated town or incorporated city is without a
22 5-mile limit, the license fee chargeable by the smaller
23 incorporated town or incorporated city applies and shall be
24 paid by the applicant.

25 ~~(f) an applicant for the issuance of an original~~

~~1 license to be located in areas described in subsection (d)
2 of this subsection shall pay a one-time original license fee
3 of \$20,000 for any such license issued. The one-time license
4 fee of \$20,000 shall not apply to any transfer or renewal of
5 a license duty issued prior to July 1, 1974. All licenses,
6 however, are subject to the annual renewal fee of \$800.~~

7 (1) Each nationally chartered veterans' organization
8 issued a retail all-beverages license under the provisions
9 of [section 4] shall pay an annual license fee as follows:

10 (a) located outside of incorporated cities and
11 incorporated towns or in incorporated cities or incorporated
12 towns with a population of less than 2,000, \$250;

13 (b) located in incorporated cities with a population
14 of 2,000 or more but less than 5,000 or within a distance of
15 5 miles thereof, \$350;

16 (c) located in incorporated cities with a population
17 of 5,000 or more but less than 10,000 or within a distance
18 of 5 miles thereof, \$500;

19 (d) located in incorporated cities with a population
20 of 10,000 or more or within a distance of 5 miles thereof,
21 \$650.

22 (8) The license fees herein provided for are exclusive
23 of and in addition to other license fees chargeable in
24 Montana for the sale of alcoholic beverages."

25 NEW SECTION. Section 8. Appraisal of quota licenses

1 -- records to be furnished -- maximum amount of appraisal.

2 (1) The department shall, before December 31, 1980, appraise
3 the value of each license issued under the quota
4 restrictions of former 16-4-105 and 16-4-201.

5 (2) The appraisals must be made by the department
6 using the comparable sales method of valuation based on
7 sales prior to December 31, 1978, the quota area wherein the
8 license could be sold or transferred. When insufficient data
9 are available in an area to use the comparable sales method,
10 the department may use data from similar quota areas or may
11 use a capitalized income approach to valuing the license as
12 seems most appropriate. The appraised value determined by
13 the department is the value of each license for the purposes
14 of [sections 7 through 9].

15 (3) Each licensee, licensed under the quota
16 restrictions of former 16-4-105 and 16-4-201 shall furnish
17 to the department such books, records, statements,
18 documents, instruments, or other information as the
19 department may require for the purpose of appraising the
20 value of the license. If the licensee fails to furnish the
21 information required, the department shall proceed to
22 appraise the value of the license with such information as
23 is available to it.

24 (4) The department shall notify each licensee by
25 letter of the appraised value of his license.

1 NEW SECTION. Section 9. Appeal for licensee aggrieved
2 by appraised value. (1) If a licensee is aggrieved by the
3 department's appraised value of his license, he may appeal
4 the appraisal to the state tax appeal board.

5 (2) The appeal must be filed within 30 days of receipt
6 of notice of the appraised value by the licensee.

7 (3) The appeal must be heard in accordance with the
8 provisions of the Montana Administrative Procedure Act. The
9 findings of the state tax appeal board are final except as
10 to the right of review in the proper courts.

11 NEW SECTION. Section 10. Tax deduction granted for
12 loss of property. (1) Each licensee, licensed under the
13 quota restrictions of former 16-4-105 or 16-4-201 as of June
14 30, 1978, other than a corporate licensee, is allowed a
15 deduction in computing net income for Montana income tax
16 purposes, in the amount of the appraised value of his
17 license or \$200,000, whichever is less. The deduction shall
18 be considered in the nature of a loss and shall apply to
19 taxable years beginning after December 31, 1978. The
20 licensee may carry over the loss to each taxable period
21 following the taxable period of the loss. The portion of the
22 loss that may be carried to each of the other taxable years
23 is the total amount of the loss less the total deductions
24 claimed for that loss in all prior taxable periods to which
25 the loss was applied. In no case may the net taxable income

1 so computed be less than zero.

2 (2) Each corporate licensee, licensed under the quota
3 restrictions of former 16-4-105 or 16-4-201 as of June 30,
4 1978, is allowed a deduction in computing its net Montana
5 corporation license tax or net Montana corporation income
6 tax in the amount of the appraised value of its license. The
7 deduction shall be considered in the nature of a loss, and
8 shall apply to taxable years beginning after December 31,
9 1978. The corporate licensee may carry over the loss to each
10 taxable period following the taxable period of the loss. The
11 portion of the loss that may be carried to each of the other
12 taxable years is the total amount of the loss less the total
13 deductions claimed for that loss in all prior taxable
14 periods to which the loss was applied. In no case may the
15 net taxable income so computed be less than zero.

16 Section 11. Repealer. Sections 16-4-105 and 16-4-201
17 through 16-4-203, MCA, are repealed.

18 Section 12. Codification and application. (1) Sections
19 1 through 5 of this act are intended to be codified as an
20 integral part of Title 16, chapter 4, and the provisions
21 contained in Title 16 apply to sections 1 through 5.

22 (2) The provisions contained in Title 15 apply to
23 sections 8 through 10.

-End-

SB 359

STATE OF MONTANA

REQUEST NO. 243-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 6, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 359 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 revises the liquor and beer license systems in the state of Montana and provides new licensing systems, and reimburses existing licensees for loss of property by allowing a deduction for income tax purposes.

ASSUMPTIONS

- a) There are about 2000 licensees under the present alcoholic beverage license quota system.
- b) The average value of the quota licenses is about \$45,000 (Note : the value of the license as intangible personal property seems to vary from about \$5,000 to around \$150,000, according to the size of the community in which the establishment is located).
- c) The proposed law would have a negligible effect upon corporation license tax receipts.
- d) The average net income attributable to businesses licensed under the present quota system is \$12,000.
- e) The estimated expenditures of the Department of Revenue associated with appraisal of quota licenses and notification of licenses regarding appraisals, under the proposed law, would be \$226,000 (\$100 each for appraisal cost, \$20,000 in salaries for clerical support personnel, \$6,000 for operating expenses). These expenditures will be funded by a general fund appropriation.
- f) 100 original licenses at \$20,000 each will be granted in FY 80; of that number, 75 will renew their licenses in FY 81 for \$800 each.
- g) 25 original licenses at \$650 each will be granted in FY 80; of that number 20 will renew in FY 81.
- h) The proposed law would have a negligible effect upon beer or table wine licenses.

FISCAL IMPACT

	<u>FY81</u>	<u>FY81</u>
Individual Income Tax Collections		
under current law	\$154.268 M	\$169.790 M
under proposed law	<u>154.268 M</u>	<u>168.360 M</u>
Estimated Increase	<u>0 M</u>	<u>(\$ 1.430 M)</u>
(Decrease)		

(Continued on Page 2)

Richard L. Tracy for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/9/79

STATE OF MONTANA

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Page 2

FISCAL IMPACT (cont.)

	<u>FY80</u>	<u>FY81</u>
Liquor License Fees		
under current law	\$ 0.600 M	\$ 0.600 M
under proposed law	<u>2.616 M</u>	<u>0.673 M</u>
Estimated Increase	<u>\$ 2.016 M</u>	<u>\$ 0.073 M</u>
 TOTAL REVENUE		
under current law	\$154.868 M	\$170.390 M
under proposed law	<u>156.884 M</u>	<u>169.033 M</u>
Estimated Increase (Decrease)	<u>\$ 2.016 M</u>	<u>(\$ 1.357 M)</u>
 TOTAL EXPENDITURES FOR LICENSE APPRAISAL PROGRAM		
under current law	\$ 0	\$ 0
under proposed law	<u>0.146 M</u>	<u>0.080 M</u>
Estimated Increase	<u>\$ 0.146 M</u>	<u>\$ 0.080 M</u>
 NET EFFECT		
under current law	\$154.868 M	\$170.390 M
under proposed law	<u>156.738 M</u>	<u>168.953 M</u>
Estimated Increase (Decrease)	<u>\$ 1.870 M</u>	<u>(\$ 1.437 M)</u>
 FUND INFORMATION		
General Fund		
under current law	\$ 99.332 M	\$109.266 M
under proposed law	<u>101.202 M</u>	<u>108.343 M</u>
Estimated Increase (Decrease)	<u>\$ 1.870 M</u>	<u>(\$ 0.923 M)</u>
 Earmarked Revenue Account		
under current law	\$ 38.567 M	\$ 42.447 M
under proposed law	<u>38.567 M</u>	<u>42.090 M</u>
Estimated Increase (Decrease)	<u>\$ 0</u>	<u>(\$ 0.357 M)</u>

CHIEF, BUDGET BUREAU
Department of Administration

(Continued on Page 3)

Date: _____

STATE OF MONTANA

REQUEST NO. 243-79

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Page 3

FUND INFORMATION(cont.)

	<u>FY80</u>	<u>FY81</u>
Sinking Fund*		
under current law	\$ 16.969 M	\$ 18.677 M
under proposed law	16.969 M	18.520 M
Estimated Increase	\$ <u>0</u>	(\$ <u>0.157 M</u>)
(Decrease)		

*A portion of this account may be transferred to the general fund as long-range bond excess.

LONG-RANGE EFFECTS

The total amount of the revenue impact of this proposal is estimated to be about a \$5.4 million reduction in income taxes, but this impact will be spread over an indeterminable number of years into the future.

TECHNICAL NOTE

- a) There is no limitation on the number of years in which the loss may be carried forward.
- b) It should be noted that the income tax indicated earmarked revenue account is used to fund the Public School Foundation program; therefore, any reduction in income to that account may necessitate additional support from other sources.

(Prepared by the Department of Revenue)

 CHIEF, BUDGET BUREAU
 Department of Administration

Date: _____