

SENATE BILL 451

IN THE SENATE

| | |
|-------------------|---|
| February 10, 1979 | Introduced and referred to Committee on Business and Industry. |
| February 13, 1979 | Fiscal note requested. |
| February 16, 1979 | Committee recommend bill, as amended. |
| February 19, 1979 | Printed and placed on members' desks. |
| February 20, 1979 | Fiscal note returned. |
| February 21, 1979 | Second reading, indefinitely postponed. |
| February 22, 1979 | On motion, Senate reconsider its action taken on Second reading, previous Legislative Day. Motion adopted. |
| February 23, 1979 | Committee of the Whole recommend that further action be indefinitely postponed, as amended. Report adopted. |

1 *Senate* BILL NO. *451*
 2 INTRODUCED BY *Four* *John* *Mark* *Blaylock*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
 5 ISSUANCE OF ALL-BEVERAGES AND BEER LICENSES IN ADDITION TO
 6 THOSE ALLOWED UNDER QUOTA IN CERTAIN CASES; ALLOWING A TAX
 7 CREDIT FOR EXISTING LICENSEES; AND AMENDING SECTIONS
 8 16-4-105 AND 16-4-201, MCA."
 9

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

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

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

20 (a) the number of retail beer licenses that the
 21 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 (i) 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 one retail beer license, which
 5 may not be used in conjunction with a retail all-beverages
 6 license;

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

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

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

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

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

17 (d) such limitations do not prevent the issuance of a
 18 nontransferable and nonassignable retail beer license to a
 19 post of a nationally chartered veterans' organization or a
 20 lodge of a recognized national fraternal organization if
 21 such veterans' or fraternal organization has been in
 22 existence for a period of 5 years or more prior to January
 23 1, 1949;

24 (e) the number of retail beer licenses that the
 25 department may issue for use at premises situated outside of

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

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

22 (3) A retail license to sell beer in the original
 23 packages for off-premises consumption only may be issued to
 24 any person, firm, or corporation who is approved by the
 25 department as a fit and proper person, firm, or corporation

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

10 (4) (a) The department may issue a license in excess
 11 of any quota established in this section whenever the
 12 following criteria are met:

13 (i) the department finds, after a public hearing, that
 14 the public convenience and necessity would be served by such
 15 a license; and

16 (ii) that the general level of economic activity in the
 17 area for which the license is sought is sufficient to
 18 adequately support an additional license without significant
 19 harm to existing licensees.

20 (b) A license issued under this subsection may not be
 21 mortgaged or pledged as security and may not be moved to
 22 another location except upon a favorable finding by the
 23 department under (4)(a)(i)."

24 Section 2. Section 16-4-201, MCA, is amended to read:
 25 "16-4-201. All-beverages license quota. (1) Except as

1 otherwise provided by law, a license to sell liquor, beer,
 2 and wine at retail (an all-beverages license) in accordance
 3 with the provisions of this code and the rules of the
 4 Department may be issued to any person who is approved by
 5 the department as a fit and proper person to sell such
 6 beverages, except that the number of all-beverages licenses
 7 that the department may issue for premises situated within
 8 incorporated cities and incorporated towns and within a
 9 distance of 5 miles from the corporate limits of such cities
 10 and towns shall be determined on the basis of population as
 11 shown by the most recent official United States census
 12 authorized by congress, as follows:

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

16 (b) in incorporated cities or incorporated towns of
 17 more than 500 inhabitants and not over 3,000 inhabitants and
 18 within a distance of 5 miles from the corporate limits of
 19 such cities and towns, three retail licenses for the first
 20 1,000 inhabitants and one retail license for each additional
 21 1,000 inhabitants;

22 (c) in incorporated cities of over 3,000 inhabitants
 23 and within a distance of 5 miles from the corporate limits
 24 thereof, five retail licenses for the first 3,000
 25 inhabitants and one retail license for each additional 1,500

1 inhabitants.

2 (2) The number of the inhabitants in such cities and
3 towns, exclusive of the number of inhabitants residing
4 within a distance of 5 miles from the corporate limits
5 thereof, shall govern the number of retail licenses that may
6 be issued for use within such cities and towns and within a
7 distance of 5 miles from the corporate limits thereof. If
8 two or more incorporated municipalities are situated within
9 a distance of 5 miles from each other, the total number of
10 retail licenses that may be issued for use in both of such
11 municipalities and within a distance of 5 miles from their
12 respective corporate limits shall be determined on the basis
13 of the combined populations of both of such municipalities
14 and may not exceed the foregoing limitations.
15 Notwithstanding the preceding sentence, the total population
16 for determining the quota of a city may include with the
17 city's population the population residing outside but within
18 5 miles of the city limits in a case where the number of
19 persons residing outside but within 5 miles of the city
20 exceeds the number of persons residing within the city.
21 Such a determination may be made only upon a special census
22 taken by the department or its agent at the expense of the
23 applicant for a license under this section. The distance of
24 5 miles from the corporate limits of any incorporated city
25 or incorporated town shall be measured in a straight line

1 from the nearest entrance of the premises proposed for
2 licensing to the nearest corporate boundary of the city or
3 town.

4 (3) Retail all-beverages licenses of issue on March 7,
5 1947, and which are in excess of the foregoing limitations
6 shall be renewable, but no new licenses may be issued in
7 violation of such limitations.

8 (4) Such limitations do not prevent the issuance of a
9 nontransferable and nonassignable (as to ownership only)
10 retail license to any post of a nationally chartered
11 veterans' organization or any lodge of a recognized national
12 fraternal organization if such veterans' or fraternal
13 organization has been in existence for a period of 5 years
14 or more prior to January 1, 1949.

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

23 (6) (a) The department may issue a license in excess
24 of any quota established in this section whenever the
25 following criteria are met:

1 (i) the department finds, after a public hearing, that
2 the public convenience and necessity would be served by such
3 a license; and

4 (ii) that the general level of economic activity in the
5 area for which the license is sought is sufficient to
6 adequately support an additional license without significant
7 harm to existing licensees.

8 (b) A license issued under this subsection may not be
9 mortgaged or pledged as security and may not be moved to
10 another location except upon a favorable finding by the
11 department under (6)(a)(i)."

12 NEW SECTION. Section 3. Individual income tax credit
13 for excess cost of liquor and beer licenses. (1) A person
14 who purchased a beer retailer's license, a beer retailer's
15 license with a wine amendment, or an all-beverages license
16 after January 1, 1970, and who possesses the license on [the
17 effective date of this act] is entitled to a credit against
18 the tax imposed under 15-30-103 and 15-30-104. The amount
19 of the credit is computed as follows:

20 (a) for a beer retailer's license or a beer retailer's
21 license with a wine amendment, subtract the annual license
22 fee required by 16-4-501(1)(c) or 16-4-501(5) as applicable
23 for the license held from the amount paid for the license;

24 (b) for an all-beverages license, subtract \$20,000
25 from the cost of the license; and

1 (c) multiply the difference determined under (a) or
2 (b) by the applicable percentage in the following schedule:

| 3 | Percent of | |
|----|--|-----|
| 4 | Difference | |
| 5 | Amount of Time Elapsed Between Purchase | |
| 6 | Date and [Effective Date of This Act] | |
| 7 | Allowed as | |
| 8 | Credit | |
| 7 | Less than 1 year | 90% |
| 8 | At least 1 year but less than 2 years | 80% |
| 9 | At least 2 years but less than 3 years | 70% |
| 10 | At least 3 years but less than 4 years | 60% |
| 11 | At least 4 years but less than 5 years | 50% |
| 12 | At least 5 years but less than 6 years | 40% |
| 13 | At least 6 years but less than 7 years | 30% |
| 14 | At least 7 years but less than 8 years | 20% |
| 15 | At least 8 years but no earlier than January 1, 1970 | 10% |

16 (2) A person seeking to claim this credit must supply
17 documentary evidence establishing the date of purchase and
18 the amount actually paid for the license. No amount of
19 credit may be based on amounts paid for items that may have
20 been purchased with the license, which include, without
21 limitation the following: buildings and other tangible
22 assets, insurance, intangible assets, and good will.

23 (3) No more than one credit may be claimed under this
24 section with respect to a specific license, except that each
25 member of a set of multiple owners of one license may claim

SB 451

LC 0897/01

1 a credit with respect to his pro rata share of the cost of
2 the license. The credit must be claimed against the tax
3 liability for the tax year during which this act becomes
4 effective. If the amount of tax credit exceeds the
5 taxpayer's liability for this tax year, the excess may be
6 carried over and claimed against the taxpayer's liability in
7 the next 4 succeeding tax years following its initial use.

-End-

Approved by Committee
on Business and Industry

1 SENATE BILL NO. 451
2 INTRODUCED BY LOWE, REGAN, MATHERS, BLAYLOCK
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
5 ISSUANCE OF ALL-BEVERAGES AND BEER LICENSES IN ADDITION TO
6 THOSE ALLOWED UNDER QUOTA IN CERTAIN CASES; ALLOWING A TAX
7 CREDIT FOR EXISTING LICENSEES; AND AMENDING SECTIONS
8 16-4-105 AND 16-4-201, MCA."
9

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

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

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

20 (a) the number of retail beer licenses that the
21 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 (i) 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 one retail beer license, which
5 may not be used in conjunction with a retail all-beverages
6 license;

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

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

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

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

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

17 (d) such limitations do not prevent the issuance of a
 18 nontransferable and nonassignable retail beer license to a
 19 post of a nationally chartered veterans' organization or a
 20 lodge of a recognized national fraternal organization if
 21 such veterans' or fraternal organization has been in
 22 existence for a period of 5 years or more prior to January
 23 1, 1949;

24 (e) the number of retail beer licenses that the
 25 department may issue for use at premises situated outside of

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

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

22 (3) A retail license to sell beer in the original
 23 packages for off-premises consumption only may be issued to
 24 any person, firm, or corporation who is approved by the
 25 department as a fit and proper person, firm, or corporation

1 to sell beer and whose premises proposed for licensing are
 2 operated as a bona fide grocery store or a drugstore
 3 licensed as a pharmacy. The number of such licenses that
 4 the department may issue is not limited by the provisions of
 5 subsec on (1) of this section but shall be determined by
 6 the department in the exercise of its sound discretion, and
 7 the department may in the exercise of its sound discretion
 8 grant or deny any application for any such license or
 9 suspend or revoke any such license for cause.

10 (4) (a) The department may issue a license in excess
 11 of any quota established in this section whenever the
 12 following criteria are met:

13 (i) the department finds, after a public hearing, that
 14 the public convenience and necessity would be served by such
 15 a license; and

16 (ii) that the general level of economic activity in the
 17 area for which the license is sought is sufficient to
 18 adequately support an additional license without significant
 19 harm to existing licensees.

20 (b) A license issued under this subsection may not be
 21 SOLD AND MAY NOT BE mortgaged or pledged as security and may
 22 not be moved to another location except upon a favorable
 23 finding by the department under (4)(a)(i)."

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

25 "16-4-201. All-beverages license quota. (1) Except as

1 otherwise provided by law, a license to sell liquor, beer,
 2 and wine at retail (an all-beverages license) in accordance
 3 with the provisions of this code and the rules of the
 4 department may be issued to any person who is approved by
 5 the department as a fit and proper person to sell such
 6 beverages, except that the number of all-beverages licenses
 7 that the department may issue for premises situated within
 8 incorporated cities and incorporated towns and within a
 9 distance of 5 miles from the corporate limits of such cities
 10 and towns shall be determined on the basis of population as
 11 shown by the most recent official United States census
 12 authorized by congress, as follows:

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

16 (b) in incorporated cities or incorporated towns of
 17 more than 500 inhabitants and not over 3,000 inhabitants and
 18 within a distance of 5 miles from the corporate limits of
 19 such cities and towns, three retail licenses for the first
 20 1,000 inhabitants and one retail license for each additional
 21 1,000 inhabitants;

22 (c) in incorporated cities of over 3,000 inhabitants
 23 and within a distance of 5 miles from the corporate limits
 24 thereof, five retail licenses for the first 3,000
 25 inhabitants and one retail license for each additional 1,500

1 inhabitants.

2 (2) The number of the inhabitants in such cities and

3 towns, exclusive of the number of inhabitants residing

4 within a distance of 5 miles from the corporate limits

5 thereof, shall govern the number of retail licenses that may

6 be issued for use within such cities and towns and within a

7 distance of 5 miles from the corporate limits thereof. If

8 two or more incorporated municipalities are situated within

9 a distance of 5 miles from each other, the total number of

10 retail licenses that may be issued for use in both of such

11 municipalities and within a distance of 5 miles from their

12 respective corporate limits shall be determined on the basis

13 of the combined populations of both of such municipalities

14 and may not exceed the foregoing limitations.

15 Notwithstanding the preceding sentence, the total population

16 for determining the quota of a city may include with the

17 city's population the population residing outside but within

18 5 miles of the city limits in a case where the number of

19 persons residing outside but within 5 miles of the city

20 exceeds the number of persons residing within the city.

21 Such a determination may be made only upon a special census

22 taken by the department or its agent at the expense of the

23 applicant for a license under this section. The distance of

24 5 miles from the corporate limits of any incorporated city

25 or incorporated town shall be measured in a straight line

1 from the nearest entrance of the premises proposed for

2 licensing to the nearest corporate boundary of the city or

3 town.

4 (3) Retail all-beverages licenses of issue on March 7,

5 1947, and which are in excess of the foregoing limitations

6 shall be renewable, but no new licenses may be issued in

7 violation of such limitations.

8 (4) Such limitations do not prevent the issuance of a

9 nontransferable and nonassignable (as to ownership only)

10 retail license to any post of a nationally chartered

11 veterans' organization or any lodge of a recognized national

12 fraternal organization if such veterans' or fraternal

13 organization has been in existence for a period of 5 years

14 or more prior to January 1, 1949.

15 (5) The number of retail all-beverages licenses that

16 the department may issue for use at premises situated

17 outside of any incorporated city or incorporated town and

18 outside of the area within a distance of 5 miles from the

19 corporate limits thereof may not be more than one license

20 for each 750 population of the county after excluding the

21 population of incorporated cities and incorporated towns in

22 such county.

23 (6) (a) The department may issue a license in excess

24 of any quota established in this section whenever the

25 following criteria are met:

1 ~~(i) the department finds, after a public hearing, that~~
 2 ~~the public convenience and necessity would be served by such~~
 3 ~~a license; and~~

4 ~~(ii) that the general level of economic activity in the~~
 5 ~~area for which the license is sought is sufficient to~~
 6 ~~adequately support an additional license without significant~~
 7 ~~harm to existing licensees.~~

8 ~~(b) A license issued under this subsection may not be~~
 9 ~~SOLD AND MAY NOT BE mortgaged or pledged as security and may~~
 10 ~~not be moved to another location except upon a favorable~~
 11 ~~finding by the department under (6)(a)(i)."~~

12 ~~NEW SECTION. Section 3. Individual--income--tax TAX~~
 13 ~~credit for excess cost of liquor and beer licenses. (1) A~~
 14 ~~person OR CORPORATION who OR WHICH purchased a beer~~
 15 ~~retailer's license, a beer retailer's license with a wine~~
 16 ~~amendment, or an all-beverages license after January 1,~~
 17 ~~1970, and who possesses the license on [the effective date~~
 18 ~~of this act] is entitled to a credit against the INDIVIDUAL~~
 19 ~~INCOME tax imposed--under--15-30-103--and-15-30-104 OR THE~~
 20 ~~CORPORATION INCOME OR LICENSE TAX, WHICHEVER IS APPLICABLE.~~

21 The amount of the credit is computed as follows:

22 (a) for a beer retailer's license or a beer retailer's
 23 license with a wine amendment, subtract the annual license
 24 fee required by 16-4-501(1)(c) or 16-4-501(5) as applicable
 25 for the license held from the amount paid for the license;

1 (b) for an all-beverages license, subtract \$20,000
 2 from the cost of the license; and

3 (c) multiply the difference determined under (a) or
 4 (b) by the applicable percentage in the following schedule:

| 5 | 6 | 7 | 8 |
|----|------------|--|------------|
| | Percent of | Amount of Time Elapsed Between Purchase | Allowed as |
| | Difference | Date and [Effective Date of This Act] | Credit |
| 9 | | Less than 1 year | 90% |
| 10 | | At least 1 year but less than 2 years | 80% |
| 11 | | At least 2 years but less than 3 years | 70% |
| 12 | | At least 3 years but less than 4 years | 60% |
| 13 | | At least 4 years but less than 5 years | 50% |
| 14 | | At least 5 years but less than 6 years | 40% |
| 15 | | At least 6 years but less than 7 years | 30% |
| 16 | | At least 7 years but less than 8 years | 20% |
| 17 | | At least 8 years but no earlier than January 1, 1970 | 10% |

18 (2) A person OR CORPORATION seeking to claim this
 19 credit must supply documentary evidence establishing the
 20 date of purchase and the amount actually paid for the
 21 license. No amount of credit may be based on amounts paid
 22 for items that may have been purchased with the license,
 23 which include, without limitation the following: buildings
 24 and other tangible assets, insurance, intangible assets, and
 25 good will.

1 (3) No more than one credit may be claimed under this
2 section with respect to a specific license, except that each
3 member of a set of multiple owners of one license may claim
4 a credit with respect to his OR ITS pro rata share of the
5 cost of the license. The credit must be claimed against the
6 tax liability for the tax year during which this act becomes
7 effective. If the amount of tax credit exceeds the
8 taxpayer's liability for this tax year, the excess may be
9 carried over and claimed against the taxpayer's liability in
10 the next--4 succeeding tax years following its initial use.

-End-

STATE OF MONTANA

REQUEST NO. 337-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 451 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 authorizes the issuance of all-beverages and beer licenses in addition to those allowed under quota in certain cases; allows a tax credit for existing licenses.

ASSUMPTIONS

- (a) There are about 2000 licensees under the present alcoholic beverage license quota system, of which 1600 are all-beverages licensees and 400 are beer licensees.
- (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, depending upon the size of the community in which the establishment is located).
- (c) The number of licensees according to elapsed time since license purchase is assumed to be as follows: (see table on attached sheet)
- (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 would be \$226,000. It is assumed that these expenditures will be funded by a general fund appropriation for FY80.
- (f) 100 original licenses at \$20,000 each will be granted in FY80; of that number 75 will renew their license in FY81 for \$800 each.
- (g) 25 original licenses at \$650 each will be granted in FY80; of that number, 20 will renew in FY81.
- (h) The proposed law would have a negligible effect upon new beer or table wine licenses.

FISCAL IMPACT

| | <u>FY 80</u> | <u>FY 81</u> |
|-----------------------------------|---------------------|---------------------|
| Individual Income Tax Collections | | |
| under current law | \$154.268 M | \$169.790 M |
| under proposed law | 152.887 M | 168.409 M |
| Estimated Decrease | <u>(\$ 1.381 M)</u> | <u>(\$ 1.381 M)</u> |
| Liquor License Fees | | |
| under current law | \$ 0.600 M | \$ 0.600 M |
| under proposed law | 2.616 M | 0.673 M |
| Estimated Increase | <u>\$ 2.016 M</u> | <u>\$ 0.073 M</u> |

(Continued on Page 2)

Richard L. Langston
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4/22/79

STATE OF MONTANA

REQUEST NO. 337-79

FISCAL NOTE

Form BD 15

In compliance with a written request received February 16, 1979, there is hereby submitted a Fiscal Note for Senate Bill 451 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.

Page 2

FISCAL IMPACT (Cont.)

| | <u>FY 80</u> | <u>FY 81</u> |
|--|-------------------|---------------------|
| Total Revenue | | |
| under current law | \$154.868 M | \$170.390 M |
| under proposed law | 155.503 M | 169.082 M |
| Estimated Increase | <u>\$ 0.635 M</u> | <u>(\$ 1.308 M)</u> |
| Total Expenditures for License Appraisal | | |
| under current law | \$ 0 | \$ 0 |
| under proposed law | .226 M | 0 |
| Estimated Increase | <u>\$.226 M</u> | <u>\$ 0</u> |
| Net Effect | | |
| under current law | \$154.868 M | \$170.390 M |
| under proposed law | 155.277 M | 169.082 M |
| Estimated Increase | <u>\$ 0.409 M</u> | <u>(\$ 1.308 M)</u> |

FUND INFORMATION

| | | |
|------------------------|---------------------|---------------------|
| General Fund | | |
| under current law | \$ 99.332 M | \$109.266 M |
| under proposed law | 100.238 M | 108.455 M |
| Estimated Impact | <u>\$ 0.906 M</u> | <u>(\$ 0.811 M)</u> |
| Earmarked Revenue Fund | | |
| under current law | \$ 38.567 M | \$ 42.447 M |
| under proposed law | 38.222 M | 42.102 M |
| Estimated Decrease | <u>(\$ 0.345 M)</u> | <u>(\$ 0.345 M)</u> |
| Sinking Fund* | | |
| under current law | \$ 16.969 M | \$ 18.677 M |
| under proposed law | 16.817 M | 18.525 M |
| Estimated Decrease | <u>(\$ 0.152 M)</u> | <u>(\$ 0.152 M)</u> |

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

(Continued on page 3)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date:

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Page 3

EFFECT ON LOCAL GOVERNMENTS

Local governments may assess licensees a fee (5/8 of state fee for all-beverages license, 100% of state fee for beer or beer-wine licenses) for the privilege of operating an alcoholic beverage establishment, but it is not known how many will do so. Also, see technical note (b) for possible effect on school finance.

LONG-RANGE EFFECTS

It is estimated that the total value of individual income tax credits which will be granted under the proposed law will be \$6.875 million; however, most of this total impact will be distributed over the 5 year period of FY80 to FY84.

TECHNICAL NOTES

- (a) It is anticipated that a substantial number of the claims for tax credits will result in litigation, but the implications of this hypothesis were not included in the foregoing assumptions.
- (b) It should be noted that income to the indicated earmarked revenue fund is used to support the Public School Foundation Program; therefore, any reduction in receipts to that account may necessitate additional support from other sources.

PREPARED BY DEPARTMENT OF REVENUE

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

F.N. Req. 337-79 for Senate Bill 451 - Assumption (c)

| <u>ELAPSED TIME SINCE PURCHASE</u> | <u>NUMBER OF LICENSEES</u> |
|--|----------------------------|
| less than 1 yr. | 600 |
| at least 1 yr. but less than 2 yrs. | 420 |
| at least 2 yrs. but less than 3 yrs. | 294 |
| at least 3 yrs. but less than 4 yrs. | 206 |
| at least 4 yrs. but less than 5 yrs. | 144 |
| at least 5 yrs. but less than 6 yrs. | 101 |
| at least 6 yrs. but less than 7 yrs. | 71 |
| at least 7 yrs. but less than 8 yrs. | 49 |
| at least 8 yrs. but less than 9 1/2 yrs. | 47 |
| 9 1/2 yrs. or more | 68 |