

House Bill 743

In The House

February 13, 1981	Introduced and referred to Committee on Business and Industry.
February 20, 1981	Committee recommend bill do pass.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading do pass.
February 24, 1981	Considered correctly engrossed.
February 25, 1981	Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Business and Industry.
April 23, 1981	Died in Committee.

HOUSE BILL NO. 743

INTRODUCED BY

O'Connell, Rickard, Manning, Ristow, Falgout, Daily, Nelson, Johnson, Semet, Moore

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 16-4-105, MCA, TO PERMIT OFF-PREMISES SALE OF WINE BY RESTAURANTS OR PREPARED FOOD BUSINESSES WHO HOLD AN ON-PREMISES LICENSE FOR BEER AND WINE."

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

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

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

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

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

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

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

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

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

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

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

23 (e) the number of retail beer licenses that the
 24 department may issue for use at premises situated outside of
 25 any incorporated city or incorporated town and outside of

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

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

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

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

-End-

Approved by Committee on Business and Industry

HOUSE BILL NO. 743

INTRODUCED BY

O'Connell, Richard, Manning, Victoria, Folsom, Daily, Nelson, Robert, Lemond, Moore

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 16-4-105, MCA, TO PERMIT OFF-PREMISES SALE OF WINE BY RESTAURANTS OR PREPARED FOOD BUSINESSES WHO HOLD AN ON-PREMISES LICENSE FOR BEER AND WINE."

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

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

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

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

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

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

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

16 (d) such limitations do not prevent the issuance of a
 17 nontransferable and nonassignable retail beer license to a
 18 post of a nationally chartered veterans' organization or a
 19 lodge of a recognized national fraternal organization if
 20 such veterans' or fraternal organization has been in
 21 existence for a period of 5 years or more prior to January
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23 (e) the number of retail beer licenses that the
 24 department may issue for use at premises situated outside of
 25 any incorporated city or incorporated town and outside of

1 the area within a distance of 5 miles from the corporate
 2 limits thereof or for use at premises situated within any
 3 unincorporated town shall be as determined by the department
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 7 of such license is required by public convenience and
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9 (2) A person holding a license to sell beer for
 10 consumption on the premises at retail may apply to the
 11 department for an amendment to the license permitting the
 12 holder to sell wine as well as beer. The division may issue
 13 such amendment if it finds, on a satisfactory showing by the
 14 applicant, that the sale of wine for consumption on the
 15 premises would be supplementary to a restaurant or
 16 prepared-food business. A person holding a beer-and-wine
 17 license may sell wine for consumption on the premises or off
 18 the premises. Nonretention of the beer license, for whatever
 19 reason, shall mean automatic loss of the wine amendment
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21 (3) A retail license to sell beer or table wine, or
 22 both, in the original packages for off-premises consumption
 23 only may be issued to any person, firm, or corporation who
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 25 firm, or corporation to sell beer or table wine, or both,

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2 bona fide grocery store or a drugstore licensed as a
3 pharmacy. The number of such licenses that the department
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6 the exercise of its sound discretion, and the department may
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Clarell Richard Manning
Daily Nelson Robert Lemuel Moore

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