

Senate Bill 6

In The Senate

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| January 5, 1981 | Introduced and referred to committee on Taxation. |
| January 6, 1981 | Fiscal note requested. |
| January 12, 1981 | Fiscal note returned. |
| April 23, 1981 | Died in Committee. |

1 SENATE BILL NO. 6
2 INTRODUCED BY TOWE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE LIQUOR
5 AND BEER LICENSE QUOTA SYSTEMS IN THE STATE OF MONTANA WITH
6 A NEW LICENSING SYSTEM; AMENDING SECTIONS 16-4-203,
7 16-4-204, AND 16-4-501, MCA; AND REPEALING SECTIONS
8 16-4-105, 16-4-201, 16-4-202, AND 16-4-208, MCA."

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

11 NEW SECTION. Section 1. Appraisal of quota licenses --
12 records to be furnished. (1) The department shall, before
13 December 31, 1981, appraise the value of each beer license
14 and any wine amendment thereto and each all-beverages
15 license in first-class and second-class cities issued prior
16 to July 1, 1981.

17 (2) The appraisals must be made by a qualified and
18 competent appraiser hired by the department using the
19 comparable sales method of valuation or any other method
20 acceptable to a qualified appraiser.

21 (3) The appraised value determined as provided in
22 subsection (2) in a quota area is the value of a license in
23 the same area issued under [sections 2 through 5].

24 (4) Each licensee, licensed prior to July 1, 1981,
25 shall furnish to the department such books, records,

1 statements, documents, instruments, or other information as
2 the department may require for the purpose of appraising the
3 value of the license. If a licensee fails to furnish the
4 information required, the department shall proceed to
5 appraise the value of the license with such information as
6 is available to it.

7 NEW SECTION. Section 2. On- and off-premises retail
8 beer licenses. Except as otherwise provided by law, a
9 license to sell beer at retail for consumption on or off
10 premises, in accordance with the provisions of this code and
11 the rules of the department, may be issued to any person,
12 association, organization, firm, or corporation approved by
13 the department as a fit and proper person, association,
14 organization, firm, or corporation to sell beer.

15 NEW SECTION. Section 3. Wine license amendments. Any
16 person, association, organization, firm, or corporation
17 holding a license to sell beer for consumption on the
18 premises at retail under [section 2] may apply to the
19 department for an amendment to the license permitting the
20 holder to sell wine as well as beer. The department may
21 issue the amendment if it finds, on a satisfactory showing
22 by the applicant, that the sale of wine for consumption on
23 the premises would be supplementary to a restaurant or
24 prepared-food business. A person, association, organization,
25 firm, or corporation holding a beer license under [section

2] with a wine amendment may sell wine for consumption on the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

NEW SECTION. Section 4. Off-premises retail beer and table wine license. A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption only, may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association, organization, firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are a store at a fixed location possessing and displaying a Montana retail store license as provided by Title 15, chapter 57, part 1. The license shall be issued by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause.

NEW SECTION. Section 5. All-beverages license. Except as otherwise provided by law, a license to sell liquor, beer, and wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of the department may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association,

organization, firm, or corporation to sell such beverages.

NEW SECTION. Section 6. Renewal of certain licenses. A beer license and any wine amendment thereto or an all-beverages license issued prior to July 1, 1981, may be converted to a comparable license under [sections 2 through 5], and is renewable on an annual basis in accordance with the provisions of this code.

Section 7. Section 16-4-203, MCA, is amended to read:

"16-4-203. Determination of public convenience and necessity. Any original license issued pursuant to ~~16-4-201 or 16-4-202~~ this chapter subsequent to ~~April 30, 1974~~ July 1, 1981, shall be issued only upon the department having first determined, upon a hearing held pursuant to the Montana Administrative Procedure Act, that the issuance of such license is justified by public convenience and necessity."

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

"16-4-204. Contents of license -- posting -- privilege -- transfer -- expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a

1 partnership or if more than one person has any interest in
 2 the business operated under the license, the names of all
 3 persons in the partnership or interested in the business
 4 must appear on the license. Every license must be posted in
 5 a conspicuous place on the premises wherein the business
 6 authorized under the license is conducted, and such license
 7 shall be exhibited upon request to any authorized
 8 representative of the department or to any peace officer of
 9 the state of Montana.

10 (2) Any license issued under the provisions of this
 11 part shall be considered a privilege personal to the
 12 licensee named in the license and shall be good until the
 13 expiration of the license unless sooner revoked or
 14 suspended.

15 (3) A license may be transferred to the executor or
 16 administrator of the estate of any deceased licensee when
 17 such estate consists in whole or in part of the business of
 18 selling liquor under a license, and in such event the
 19 license may descend or be disposed of with the business to
 20 which it is applicable under appropriate probate
 21 proceedings.

22 (4) In the event of a major loss or damage to licensed
 23 premises by unforeseen natural causes or in case of
 24 expiration of lease of the licensed premises or in the event
 25 of eviction or increase of rent by the landlord (in case of

1 rented licensed premises) or in case of proposed removal of
 2 license to premises as substantially suited for the retail
 3 liquor business as the premises vacated, the licensee may
 4 apply to the department for a transfer of the license to
 5 different premises. The department may in its discretion
 6 permit a transfer in such cases if it appears to the
 7 department that such a transfer is required to do justice to
 8 the licensee applying for the transfer. The department
 9 shall in no event nor for any cause permit a transfer to
 10 different premises where the sanitary, health, and service
 11 facilities are less satisfactory than such facilities which
 12 exist or had existed at the premises from which the transfer
 13 is proposed to be made.

14 (5) Upon a bona fide sale of the business operated
 15 under any license, the license may be transferred to a
 16 qualified purchaser. No transfer of any license as to
 17 person or location shall be effective unless and until
 18 approved by the department, and any licensee or transferee
 19 or proposed transferee who operates or attempts to operate
 20 under any supposedly transferred license prior to the
 21 approval of such transfer by the department, endorsed upon
 22 the license in writing, shall be considered as operating
 23 without a license and the license affected may be revoked or
 24 suspended by the department. The department may, within its
 25 discretion, permit a qualified purchaser to operate the

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1 business to be transferred pending final approval, providing
2 the application for transfer has been filed with the
3 department.

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

8 ~~(i) the total number of all beverage licenses in the~~
9 ~~original quota area exceeded the quota for that area by at~~
10 ~~least 25% in the most recent census;~~

11 ~~(ii) the total number of all beverage licenses in the~~
12 ~~quota area to which the license would be transferred did not~~
13 ~~exceed that area's quota by more than 25% in the most recent~~
14 ~~census; and~~

15 ~~(iii) and only when~~ the department finds, after a public
16 hearing, that the public convenience and necessity would be
17 served by such a transfer.

18 ~~(b) A license transferred between quota areas under~~
19 ~~this section may not be mortgaged or pledged as security and~~
20 ~~may not be transferred to another person except for a~~
21 ~~transfer by inheritance upon the death of the licensee. A~~
22 ~~license transferred between quota areas under this section~~
23 ~~may be held only by natural persons. For the purpose of~~
24 ~~this section, natural persons shall not include limited~~
25 ~~partnerships or other business entities of any kind in which~~

1 ~~each natural person is not a full participant in the~~
2 ~~ownership and operation of the business authorized by the~~
3 ~~license.~~

4 (7) (a) Any all-beverage licensee is, upon the approval
5 and in the discretion of the liquor division, entitled to a
6 catering endorsement to his all-beverage license to allow
7 the catering and sale of alcoholic beverages to persons
8 attending a special event upon premises not otherwise
9 licensed for the sale of alcoholic beverages, such beverages
10 to be consumed on the premises where the event is held.

11 (b) A written application for a catering endorsement
12 and an annual fee of \$250 must be submitted to the
13 department for its approval.

14 (c) A written application for each event for which the
15 licensee intends to provide catering services, the written
16 approval of the catering application by the sponsor of the
17 special event, and a fee of \$40 must be filed with the
18 department at least 10 days prior to the event and shall
19 describe the location of the premises where the event is to
20 be held, the nature of the event, and the period during
21 which the event is to be held. An all-beverage licensee who
22 holds an endorsement granted under this subsection (7) may
23 not receive approval to cater an event of which he is the
24 sponsor. The catered event must be within 100 miles of the
25 licensee's regular place of business. If obtained, the

1 licensee shall display in a prominent place on those
2 premises, the written approval from the department for each
3 event which is catered pursuant to this subsection.

4 (d) The licensee shall file with each application for
5 an event to be catered a written statement of approval of
6 the premises where the event is to be held issued by the
7 department of health and environmental sciences.

8 (e) The sale of alcoholic beverages pursuant to a
9 catering endorsement is subject to the provisions of
10 16-6-103.

11 (f) The sale of alcoholic beverages pursuant to a
12 catering endorsement is subject to the provisions of
13 16-3-306, unless entities named in 16-3-306 give their
14 written approval.

15 (8) Except as above provided, no license shall be
16 transferred or sold nor shall it be used for any place of
17 business not described in the license; provided, however,
18 that such license may be subject to mortgage and other valid
19 liens, in which event the name of the mortgagee, upon
20 application to and approval of the department, must be
21 endorsed on the license.

22 (9) All licenses shall expire at midnight of June 30 of
23 each year."

24 Section 9. Section 16-4-501, MCA, is amended to read:

25 "16-4-501. License and permit fees. (1) Each beer

1 licensee licensed to sell either beer or table wine only, or
2 both beer and table wine, under the provisions of this code,
3 shall pay an annual license fee as follows:

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

7 (b) each beer wholesaler, \$400; each table wine
8 distributor, \$400;

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

11 (d) for a license to sell beer at retail for
12 off-premises consumption only, the same as a retail beer
13 license; for a license to sell table wine at retail for
14 off-premises consumption only, either alone or in
15 conjunction with beer, \$200;

16 (e) any unit of a nationally chartered veterans'
17 organization, \$50.

18 (2) An applicant from a first-class or second-class
19 city for an original license under subsection (1)(C) shall
20 pay a one-time original license fee equal to the appraised
21 value of the license determined in accordance with [section
22 1] for any such license issued. The one-time license fee
23 does not apply to any transfer or renewal of a license duly
24 issued prior to July 1, 1981. The license, however, is
25 subject to the annual renewal fee provided for in subsection

1 (1)(e).

2 ~~(2)(3)~~ The permit fee under 16-4-301(1) is computed at
3 the rate of \$15 a day for each day beer is sold at those
4 events lasting 2 or more days but in no case be less than
5 \$30.

6 ~~(3)(4)~~ The permit fee under 16-4-301(2) is \$10 for the
7 sale of beer only or \$20 for the sale of all alcoholic
8 beverages.

9 ~~(4)(5)~~ Passenger carrier licenses shall be issued upon
10 payment by the applicant of an annual license fee in the sum
11 of \$300.

12 ~~(5)(6)~~ The annual license fee for a license to sell
13 wine on the premises, when issued as an amendment to a
14 beer-only license, is \$200.

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

17 (7) Each licensee licensed ~~under the quotas of 16-4-201~~
18 for all beverages retail sales shall pay an annual license
19 fee as follows:

20 (a) except as hereinafter provided, for each license
21 outside of incorporated cities and incorporated towns or in
22 incorporated cities and incorporated towns with a population
23 of less than 2,000, \$400;

24 (b) except as hereinafter provided, for each license in
25 incorporated cities with a population of more than 2,000 and

1 less than 5,000 or within a distance of 5 miles thereof,
2 measured in a straight line from the nearest entrance of the
3 premises to be licensed to the nearest boundary of such
4 city, \$500;

5 (c) except as hereinafter provided, for each license in
6 incorporated cities with a population of more than 5,000 and
7 less than 10,000 or within a distance of 5 miles thereof,
8 measured in a straight line from the nearest entrance of the
9 premises to be licensed to the nearest boundary of such
10 city, \$650;

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

16 (e) the distance of 5 miles from the corporate limits
17 of any incorporated cities and incorporated towns is
18 measured in a straight line from the nearest entrance of the
19 premises to be licensed to the nearest boundary of such city
20 or town; and where the premises of the applicant to be
21 licensed are situated within 5 miles of the corporate
22 boundaries of two or more incorporated cities or
23 incorporated towns of different populations, the license fee
24 chargeable by the larger incorporated city or incorporated
25 town applies and shall be paid by the applicant. When the

1 premises of the applicant to be licensed are situated within
 2 an incorporated town or incorporated city and any portion of
 3 the incorporated town or incorporated city is without a
 4 5-mile limit, the license fee chargeable by the smaller
 5 incorporated town or incorporated city applies and shall be
 6 paid by the applicant.

7 ~~f)(9)~~ An applicant from a first-class or
 8 second-class city for the issuance of an original
 9 all-beverages license to be located in areas described in
 10 subsection ~~(d)~~ of this subsection shall pay a one-time
 11 original license fee of ~~\$20,000~~ equal to the appraised value
 12 of the license determined in accordance with [section 1] for
 13 any such license issued. The one-time license fee of ~~\$20,000~~
 14 shall not apply to any transfer or renewal of a license duly
 15 issued prior to July 1, ~~1974~~ 1981. ~~All~~ licenses The
 16 license, however, are is subject to the applicable annual
 17 renewal fee of ~~\$800~~ provided for in subsection (7).

18 ~~f)(2)~~ The fee for one all-beverage license to a public
 19 airport shall be \$800. This license is nontransferable.

20 ~~f)(10)~~ The license fees herein provided for are
 21 exclusive of and in addition to other license fees
 22 chargeable in Montana for the sale of alcoholic beverages."

23 Section 10. Codification. Sections 1 through 5 are
 24 intended to be codified as an integral part of Title 16,
 25 chapter 4, and the provisions contained in Title 16 apply to

1 sections 1 through 6.

2 Section 11. Repealer. Sections 16-4-105, 16-4-201,
 3 16-4-202, and 16-4-208, MCA, are repealed.

-End-

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STATE OF MONTANA

REQUEST NO. 2-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 7, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 6 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

An act to replace the liquor and beer licensing quota systems in the state of Montana with a new licensing system.

ASSUMPTIONS

1. There are 640 liquor, beer and beer/wine licenses in first and second class cities.
2. The average value (appraisal) of quota licenses would be approximately \$50,000.
3. 40 additional licenses would be granted under the proposed system in fiscal year 1982 (ave. of 3 per city) at \$50,000 each; 35 of which would be renewed in fiscal year 1983, at an average of \$750 each.
4. 15 additional licenses would be granted in fiscal year 1983 at \$50,000, 10 of which would be renewed at an average of \$750 each.
5. The estimated expenditures of the Department of Revenue with the appraisal of quota licenses in FY 82 would be \$370,000 (\$500 per appraisal, \$40,000 salaries for support personnel and \$10,000 for operating expenses).
6. Expenditures for FY 83 would be \$30,000 (\$20,000 for staff & \$10,000 operating expenses).

FISCAL IMPACT

| | FY 82 | FY 83 |
|-------------------------|------------------|------------------|
| Liquor Licenses Fees | | |
| Under current law | - | - |
| Under proposed law | - | - |
| Estimated Increase | \$2,000,000.00 | \$776,000.00 |
| Expenditure by category | | |
| Personal services | \$360,000.00 | \$20,000.00 |
| Operating expenses | <u>10,000.00</u> | <u>10,000.00</u> |
| Total Expenditures | \$370,000.00 | 30,000.00 |
| General Fund | | |
| Estimated Increase | \$1,630,000.00 | \$746,000.00 |

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-81

STATE OF MONTANA

REQUEST NO. 2-81 Revised

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for SENATE BILL 6 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

An act to replace the liquor and beer licensing quota systems in the state of Montana with a new licensing system.

ASSUMPTIONS (This is a revised fiscal note)

1. There are 640 liquor, beer and beer/wine licenses in first and second class cities.
2. The average value (appraisal) of quota licenses would be approximately \$50,000.
3. The appraisal cost of each license is 1% of the value or \$5,000 each. This figure may be considerably higher due to the time allowed for the appraisals and the possibility of having to use out-of-state appraisers.
4. 40 additional licenses would be granted under the proposed system in FY 1982 (average of three per city) at \$50,000 each; 35 of which would be renewed in FY 1983 at an average of \$750. Note that renewal fees for all-beverage licenses are \$800 in class 1 cities and \$650 in class 2 cities.
5. The estimated expenditures of the Department of Revenue with the appraisal of all liquor licenses in FY 1982 would be \$3,250,000 (\$5,000 per appraisal, \$40,000 salaries for support personnel and \$10,000 for operating expenses).
6. 15 additional licenses would be granted in FY 1983 at \$50,000 each with 10 of these renewed in FY 1984 at an average of \$750 each.
7. Expenditures for FY 1983 would be \$30,000 (\$20,000 for staff and \$10,000 for operating expenses).

FISCAL IMPACT

| | | |
|-----------------------------|---------------|-----------|
| Liquor License Fees | FY 82 | FY 83 |
| Estimated Increase | \$2,000,000 | \$776,250 |
| Total Expenditures | | |
| Estimated Increase | \$3,250,000 | \$ 30,000 |
| Net Effect | | |
| Estimated Increase/Decrease | (\$1,250,000) | \$746,250 |

TECHNICAL NOTE

1. The time limitation on appraisals may be insufficient.
2. New Section (4) line 12, does not specify type of store.
3. Section 7, 16-4-203, specifies that all new licenses could be subject to a hearing, not just all-beverages licenses as is now done.
4. The bill does not mention the counties in which the cities are located.

PREPARED BY THE DEPARTMENT OF REVENUE

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-23-81