

SENATE BILL NO. 11

INTRODUCED BY GALT

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Taxation.
January 6, 1981	Fiscal note requested.
January 9, 1981	Fiscal note returned.
January 27, 1981	Committee recommend bill do pass. Report adopted.
January 28, 1981	Bill printed and placed on members' desks.
January 29, 1981	Second reading, do pass.
January 30, 1981	Correctly engrossed.
January 31, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

February 2, 1981	Introduced and referred to Committee on Business and Industry.
March 5, 1981	Committee recommend bill be concurred in. Report adopted.
March 7, 1981	Second reading, concurred in.
March 10, 1981	Third reading, concurred in. Ayes, 93; Noes, 3.

IN THE SENATE

March 11, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
 6 TRANSFER OF ALL-BEVERAGES LICENSES IN CERTAIN CASES;
 7 AMENDING SECTION 16-4-204, MCA."

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

10 Section 1. Section 16-4-204, MCA, is amended to read:
 11 "16-4-204. Contents of license -- posting -- privilege
 12 -- transfer -- expiration. (1) Every license issued under
 13 this part shall set forth the name of the person to whom
 14 issued, the location, by street and number or other
 15 appropriate specific description of location if no street
 16 address exists, of the premises where the business is to be
 17 carried on under said license, and such other information as
 18 the department shall deem necessary. If the licensee is a
 19 partnership or if more than one person has any interest in
 20 the business operated under the license, the names of all
 21 persons in the partnership or interested in the business
 22 must appear on the license. Every license must be posted in
 23 a conspicuous place on the premises wherein the business
 24 authorized under the license is conducted, and such license
 25 shall be exhibited upon request to any authorized

1 representative of the department or to any peace officer of
 2 the state of Montana.

3 (2) Any license issued under the provisions of this
 4 part shall be considered a privilege personal to the
 5 licensee named in the license and shall be good until the
 6 expiration of the license unless sooner revoked or
 7 suspended.

8 (3) A license may be transferred to the executor or
 9 administrator of the estate of any deceased licensee when
 10 such estate consists in whole or in part of the business of
 11 selling liquor under a license, and in such event the
 12 license may descend or be disposed of with the business to
 13 which it is applicable under appropriate probate
 14 proceedings.

15 (4) In the event of a major loss or damage to licensed
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 17 expiration of lease of the licensed premises or in the event
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 19 rented licensed premises) or in case of proposed removal of
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 21 liquor business as the premises vacated, the licensee may
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1 the licensee applying for the transfer. The department
2 shall in no event nor for any cause permit a transfer to
3 different premises where the sanitary, health, and service
4 facilities are less satisfactory than such facilities which
5 exist or had existed at the premises from which the transfer
6 is proposed to be made.

7 (5) Upon a bona fide sale of the business operated
8 under any license, the license may be transferred to a
9 qualified purchaser. No transfer of any license as to
10 person or location shall be effective unless and until
11 approved by the department, and any licensee or transferee
12 or proposed transferee who operates or attempts to operate
13 under any supposedly transferred license prior to the
14 approval of such transfer by the department, endorsed upon
15 the license in writing, shall be considered as operating
16 without a license and the license affected may be revoked or
17 suspended by the department. The department may, within its
18 discretion, permit a qualified purchaser to operate the
19 business to be transferred pending final approval, providing
20 the application for transfer has been filed with the
21 department.

22 ~~(6)~~ (a) * Except as provided in subsection (6)(b), a
23 license may be transferred to a new ownership and to a
24 location outside the quota area for which it was originally
25 issued only when the following criteria are met:

1 (i) the total number of all-beverages licenses in the
2 original quota area exceeded the quota for that area by at
3 least 25% in the most recent census;

4 (ii) the total number of all-beverages licenses in the
5 quota area to which the license would be transferred did not
6 exceed that area's quota by more than 25% in the most recent
7 census; and

8 (iii) the department finds, after a public hearing, that
9 the public convenience and necessity would be served by such
10 a transfer.

11 (b) A license within an incorporated quota area may be
12 transferred to a new ownership and to a new unincorporated
13 location within the same county on application to and with
14 consent of the department when the quota of the
15 all-beverages licenses in the original quota area exceeds
16 the quota for that area by at least 25% in the most recent
17 census and will not fall below that level because of the
18 transfer.

19 ~~(b)(c)~~ * Except as provided in subsection (b) above, a
20 license transferred between quota areas under this section
21 may not be mortgaged or pledged as security and may not be
22 transferred to another person except for a transfer by
23 inheritance upon the death of the licensee. A license
24 transferred between quota areas under this section may be
25 held only by natural persons. For the purpose of this

1 section, natural persons shall not include limited
2 partnerships or other business entities of any kind in which
3 each natural person is not a full participant in the
4 ownership and operation of the business authorized by the
5 license.

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

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

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

1 sponsor. The catered event must be within 100 miles of the
2 licensee's regular place of business. If obtained, the
3 licensee shall display in a prominent place on those
4 premises, the written approval from the department for each
5 event which is catered pursuant to this subsection.

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

10 (e) The sale of alcoholic beverages pursuant to a
11 catering endorsement is subject to the provisions of
12 16-6-103.

13 (f) The sale of alcoholic beverages pursuant to a
14 catering endorsement is subject to the provisions of
15 16-3-306, unless entities named in 16-3-306 give their
16 written approval.

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

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

-End-

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SBI

STATE OF MONTANA

REQUEST NO. 3-81

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 11 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 authorize the transfer of all-beverages licenses in certain cases.

Fiscal Impact

Some expenditure impact from increased hearings.

Effect on Local Governments

Cannot be estimated.

Effect on Department of Revenue

FY 1982

FY 1983

\$500

\$500

Technical Note

Bill does not mention transfer of license between an unincorporated quota to an incorporated quota.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

Approved by Committee
on Taxation

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15 and an annual fee of \$250 must be submitted to the
16 department for its approval.

17 (c) A written application for each event for which the
18 licensee intends to provide catering services, the written
19 approval of the catering application by the sponsor of the
20 special event, and a fee of \$40 must be filed with the
21 department at least 10 days prior to the event and shall
22 describe the location of the premises where the event is to
23 be held, the nature of the event, and the period during
24 which the event is to be held. An all-beverage licensee who
25 holds an endorsement granted under this subsection (7) may

1 not receive approval to cater an event of which he is the
2 sponsor. The catered event must be within 100 miles of the
3 licensee's regular place of business. If obtained, the
4 licensee shall display in a prominent place on those
5 premises, the written approval from the department for each
6 event which is catered pursuant to this subsection.

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

11 (e) The sale of alcoholic beverages pursuant to a
12 catering endorsement is subject to the provisions of
13 16-6-103.

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

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

25 (9) All licenses shall expire at midnight of June 30

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1 of each year."

-End-