

Senate Bill 20

In The Senate

January 5, 1981

Introduced and referred
to Committee on Taxation.

April 23, 1981

Died in Committee.

1 SENATE BILL NO. 20
 2 INTRODUCTION BY TOWE
 3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PHASE OUT OVER A
 6 15-YEAR PERIOD THE LIQUOR LICENSE QUOTA SYSTEM IN MONTANA;
 7 AMENDING SECTIONS 16-4-105, 16-4-201 THROUGH 16-4-204,
 8 16-4-208, AND 16-4-501, MCA; REPEALING SECTIONS 16-4-105 AND
 9 16-4-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

12 Section 1. Purpose. It is the purpose of [this act] to
 13 modify the liquor license quota system to gradually phase
 14 out the quota system over a 15-year period. There will be no
 15 quota system after 1995. The gradual phaseout is intended to
 16 allow current and future licenseholders to make sound
 17 business decisions based upon a reasonable time period for
 18 so doing.

19 Section 2. Section 16-4-105, MCA, is amended to read:

20 "16-4-105. Limit on retail beer licenses -- wine
 21 license amendments -- off-premises consumption. (1) Except
 22 as otherwise provided by law, a license to sell beer at
 23 retail or beer and wine at retail, in accordance with the
 24 provisions of this code and the rules of the department, may
 25 be issued to any person, firm, or corporation who is

1 approved by the department as a fit and proper person, firm,
 2 or corporation to sell beer, except that:

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

10 (i) in incorporated towns of 500 inhabitants or less
 11 and within a distance of 5 miles from the corporate limits
 12 of such towns;

13 (A) for the period prior to July 1, 1983, not more than
 14 one retail beer license, which may not be used in
 15 conjunction with a retail all-beverages license;

16 (B) for the period from July 1, 1983, and prior to July
 17 1, 1987, not more than two retail beer licenses, which may
 18 not be used in conjunction with a retail all-beverages
 19 license;

20 (C) for the period from July 1, 1987, and prior to July
 21 1, 1991, not more than three retail beer licenses, which may
 22 not be used in conjunction with a retail all-beverages
 23 license;

24 (D) for the period from July 1, 1991, and prior to July
 25 1, 1995, not more than four retail beer licenses, which may

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1 not be used in conjunction with a retail all-beverages
2 license;

3 (ii) in incorporated cities or incorporated towns of
4 more than 500 inhabitants and not over 2,000 inhabitants and
5 within a distance of 5 miles from the corporate limits of
6 such cities or towns;

7 (A) for the period prior to July 1, 1983, one beer
8 license for each 500 inhabitants, which may not be used in
9 conjunction with retail all-beverages licenses;

10 (B) for the period from July 1, 1983, and prior to July
11 1, 1987, one beer license for each 375 inhabitants, which
12 may not be used in conjunction with retail all-beverages
13 licenses;

14 (C) for the period from July 1, 1987, and prior to July
15 1, 1991, one beer license for each 250 inhabitants, which
16 may not be used in conjunction with retail all-beverages
17 licenses;

18 (D) for the period from July 1, 1991, and prior to July
19 1, 1995, one beer license for each 125 inhabitants, which
20 may not be used in conjunction with retail all-beverages
21 licenses;

22 (iii) in incorporated cities of over 2,000 inhabitants
23 and within a distance of 5 miles from the corporate limits
24 of such cities;

25 (A) for the period prior to July 1, 1983, two

1 additional retail beer licenses for the first 2,000
2 inhabitants or major fraction thereof and one additional
3 retail beer license for each additional 2,000 inhabitants,
4 which may not be used in conjunction with retail
5 all-beverages licenses;

6 (B) for the period from July 1, 1983, and prior to July
7 1, 1987, three additional retail beer licenses for the first
8 2,000 inhabitants or major fraction thereof and two
9 additional retail beer licenses for each additional 2,000
10 inhabitants, which may not be used in conjunction with
11 retail all-beverages licenses;

12 (C) for the period from July 1, 1987, and prior to July
13 1, 1991, four additional retail beer licenses for the first
14 2,000 inhabitants or major fraction thereof and three
15 additional retail beer licenses for each additional 2,000
16 inhabitants, which may not be used in conjunction with
17 retail all-beverages licenses;

18 (D) for the period from July 1, 1991, and prior to July
19 1, 1995, five additional retail beer licenses for the first
20 2,000 inhabitants or major fraction thereof and four
21 additional retail beer licenses for each additional 2,000
22 inhabitants, which may not be used in conjunction with
23 retail all-beverages licenses;

24 (b) the number of the inhabitants in such cities and
25 towns, exclusive of the number of inhabitants residing

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

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

21 (d) such limitations do not prevent the issuance of a
 22 nontransferable and nonassignable retail beer license to a
 23 post of a nationally chartered veterans' organization or a
 24 lodge of a recognized national fraternal organization if
 25 such veterans' or fraternal organization has been in

1 existence for a period of 5 years or more prior to January
 2 1, 1949;

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

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

25 (3) A retail license to sell beer or table wine, or

1 both, in the original packages for off-premises consumption
 2 only may be issued to any person, firm, or corporation who
 3 is approved by the department as a fit and proper person,
 4 firm, or corporation to sell beer or table wine, or both,
 5 and whose premises proposed for licensing are operated as a
 6 bona fide grocery store or a drugstore licensed as a
 7 pharmacy. The number of such licenses that the department
 8 may issue is not limited by the provisions of subsection (1)
 9 of this section but shall be determined by the department in
 10 the exercise of its sound discretion, and the department may
 11 in the exercise of its sound discretion grant or deny any
 12 application for any such license or suspend or revoke any
 13 such license for cause."

14 Section 3. Section 16-4-201, MCA, is amended to read:
 15 "16-4-201. All-beverages license quota. (1) Except as
 16 otherwise provided by law, a license to sell liquor, beer,
 17 and wine at retail (an all-beverages license) in accordance
 18 with the provisions of this code and the rules of the
 19 department may be issued to any person who is approved by
 20 the department as a fit and proper person to sell such
 21 beverages, except that the number of all-beverages licenses
 22 that the department may issue for premises situated within
 23 incorporated cities and incorporated towns and within a
 24 distance of 5 miles from the corporate limits of such cities
 25 and towns shall be determined on the basis of population as

1 shown by the most recent official United States census
 2 authorized by congress, as follows:

3 (a) in incorporated towns of 500 inhabitants or less
 4 and within a distance of 5 miles from the corporate limits
 5 of such towns:

6 (i) for the period prior to July 1, 1983, not more than
 7 two retail licenses;

8 (ii) for the period from July 1, 1983, and prior to July
 9 1, 1987, not more than three retail licenses;

10 (iii) for the period from July 1, 1987, and prior to
 11 July 1, 1991, not more than four retail licenses;

12 (iv) for the period from July 1, 1991, and prior to July
 13 1, 1995, not more than five retail licenses;

14 (b) in incorporated cities or incorporated towns of
 15 more than 500 inhabitants and not over 3,000 inhabitants and
 16 within a distance of 5 miles from the corporate limits of
 17 such cities and towns:

18 (i) for the period prior to July 1, 1983, three retail
 19 licenses for the first 1,000 inhabitants and one retail
 20 license for each additional 1,000 inhabitants;

21 (ii) for the period from July 1, 1983, and prior to July
 22 1, 1987, four retail licenses for the first 1,000
 23 inhabitants and two retail licenses for each additional
 24 1,000 inhabitants;

25 (iii) for the period from July 1, 1987, and prior to

1 July 1, 1991, five retail licenses for the first 1,000
 2 inhabitants and three retail licenses for each additional
 3 1,000 inhabitants;

4 (iv) for the period from July 1, 1991, and prior to July
 5 1, 1995, six retail licenses for the first 1,000 inhabitants
 6 and four retail licenses for each additional 1,000
 7 inhabitants;

8 (c) in incorporated cities of over 3,000 inhabitants
 9 and within a distance of 5 miles from the corporate limits
 10 thereof;

11 (i) for the period prior to July 1, 1983, five retail
 12 licenses for the first 3,000 inhabitants and one retail
 13 license for each additional 1,500 inhabitants;

14 (ii) for the period from July 1, 1983, and prior to July
 15 1, 1987, six retail licenses for the first 3,000 inhabitants
 16 and two retail licenses for each additional 1,500
 17 inhabitants;

18 (iii) for the period from July 1, 1987, and prior to
 19 July 1, 1991, seven retail licenses for the first 3,000
 20 inhabitants and three retail licenses for each additional
 21 1,500 inhabitants;

22 (iv) for the period from July 1, 1991, and prior to July
 23 1, 1995, eight retail licenses for the first 3,000
 24 inhabitants and four retail licenses for each additional
 25 1,500 inhabitants.

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

1 licensing to the nearest corporate boundary of the city or
2 town.

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

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

14 (5) The number of retail all-beverages licenses that
15 the department may issue for use at premises situated
16 outside of any incorporated city or incorporated town and
17 outside of the area within a distance of 5 miles from the
18 corporate limits thereof:

19 (a) for the period prior to July 1, 1983, may not be
20 more than one license for each 750 population of the county
21 after excluding the population of incorporated cities and
22 incorporated towns in such county;

23 (b) for the period from July 1, 1983, and prior to July
24 1, 1987, may not be more than one license for each 560
25 population of the county after excluding the population of

1 incorporated cities and incorporated towns in such county;
2 (c) for the period from July 1, 1987, and prior to July
3 1, 1991, may not be more than one license for each 370
4 population of the county after excluding the population of
5 incorporated cities and incorporated towns in such county.

6 (d) for the period from July 1, 1991, and prior to July
7 1, 1995, may not be more than one license for each 180
8 population of the county after excluding the population of
9 incorporated cities and incorporated towns in such county."

10 NEW SECTION. Section 4. On- and off-premises retail
11 beer licenses. Except as otherwise provided by law, a
12 license to sell beer at retail for consumption on or off
13 premises, in accordance with the provisions of this code and
14 the rules of the department, may be issued to any person,
15 association, organization, firm, or corporation approved by
16 the department as a fit and proper person, association,
17 organization, firm, or corporation to sell beer.

18 NEW SECTION. Section 5. Wine license amendments. Any
19 person, association, organization, firm, or corporation
20 holding a license to sell beer for consumption on the
21 premises at retail under [section 4] may apply to the
22 department for an amendment to the license permitting the
23 holder to sell wine as well as beer. The department may
24 issue the amendment if it finds, on a satisfactory showing
25 by the applicant, that the sale of wine for consumption on

1 the premises would be supplementary to a restaurant or
 2 prepared-food business. A person, association, organization,
 3 firm, or corporation holding a beer license under [section
 4 4] with a wine amendment may sell wine for consumption on
 5 the premises. Nonretention of the beer license, for whatever
 6 reason, means automatic loss of the wine amendment license.

7 NEW SECTION. Section 6. Off-premises retail beer and
 8 table wine license. A retail license to sell beer or table
 9 wine, or both, in the original packages for off-premises
 10 consumption only, may be issued to any person, association,
 11 organization, firm, or corporation approved by the
 12 department as a fit and proper person, association,
 13 organization, firm, or corporation to sell beer or table
 14 wine, or both, and whose premises proposed for licensing are
 15 a store at a fixed location possessing and displaying a
 16 Montana retail store license as provided by Title 15,
 17 chapter 57, part 1. The license shall be issued by the
 18 department in the exercise of its sound discretion, and the
 19 department may in the exercise of its sound discretion grant
 20 or deny any application for any such license or suspend or
 21 revoke any such license for cause.

22 NEW SECTION. Section 7. All-beverages license. Except
 23 as otherwise provided by law, a license to sell liquor,
 24 beer, and wine at retail (an all-beverages license) in
 25 accordance with the provisions of this code and the rules of

1 the department may be issued to any person, association,
 2 organization, firm, or corporation approved by the
 3 department as a fit and proper person, association,
 4 organization, firm, or corporation to sell such beverages.
 5 NEW SECTION. Section 8. Renewal of certain licenses.
 6 A retail beer license and any amendment thereto or an
 7 all-beverages license issued prior to July 1, 1995, may be
 8 converted to a comparable license under [sections 4 through
 9 7], and is renewable on an annual basis in accordance with
 10 the provisions of this code.

11 Section 9. Section 16-4-202, MCA, is amended to read:
 12 "16-4-202. Resort licenses. (1) It is the intent and
 13 purpose of this section to encourage the growth of quality
 14 recreational resort facilities in undeveloped areas of the
 15 state and to provide for the orderly growth of existing
 16 recreational sites by the establishment of resort areas
 17 within which retail liquor licenses may be issued by the
 18 department under the terms and as more particularly
 19 prescribed below. In addition to the licenses as otherwise
 20 set forth in [this act], the department may issue resort
 21 retail liquor licenses in a resort area.

22 (2) For the purposes of this section, a resort area is
 23 defined as a recreational facility meeting the
 24 qualifications determined by the department as hereinafter
 25 provided.

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1 (3) The department shall determine that the area for
2 which licenses are to be issued is a resort area, such
3 determination to be made under and pursuant to rules to be
4 first promulgated on or before December 31, 1975.

5 (4) In addition to the other requirements of this code,
6 a resort area, for the purposes of qualification for the
7 issuance of resort retail liquor license, must have a
8 current actual valuation of resort or recreational
9 facilities, including land and improvements thereon, of not
10 less than \$500,000, at least half of which valuation must be
11 for a structure or structures within the resort area, and
12 must be under the sole ownership or control of one person or
13 entity at the time of the filing of the resort area plat
14 referred to in subsection (5) of this section. The word
15 control shall mean lands held under lease, option, or
16 permit.

17 (5) The resort area must be determined by the resort
18 developer or landowner by a plat setting forth the resort
19 boundaries, designating the ownership of the lands within
20 the resort area, which plat must be verified by the resort
21 developer or landowner and filed with the department prior
22 to the filing of any applications by individuals for
23 licenses within the resort area. Such plat must show the
24 location and general design of the buildings and other
25 improvements to be built in said area in which resort retail

1 liquor licenses are to or may be located. A master plan for
2 the development of the area may be filed by the resort
3 developer in satisfaction of this section.

4 (6) Upon such filing the department shall forthwith
5 schedule a public hearing to be held in Helena, Montana, to
6 determine whether the facility proposed by the resort
7 developer or landowner is a resort area within the meaning
8 of the rules of the department. At least 30 days prior to
9 the date of the hearing, the department shall publish notice
10 thereof, with a description of the location of the proposed
11 resort area, in a newspaper published in the county or
12 counties in which the resort is located, once a week for 4
13 consecutive weeks. Each resort developer or landowner
14 shall, at the time of filing his application, pay to the
15 department an amount sufficient to cover the costs of said
16 publication.

17 (7) Persons may present statements to the department at
18 the hearing in person or in writing in opposition or support
19 of the plat.

20 (8) Within 30 days of the hearing, the department shall
21 accept or reject the plat. If rejected the department must
22 state its reasons and set forth the conditions, if any,
23 under which the plat will be accepted, and the decision of
24 the department may be reviewed pursuant to the review
25 procedure set forth in 16-4-406.

1 (9) Once filed with the department, the boundaries of a
2 resort may not be changed without full hearing as above
3 provided and the prior approval of the department, which
4 approval shall be according to public convenience and
5 necessity.

6 (10) (a) When the department has accepted a plat and a
7 given resort area has been determined, applications may then
8 be filed with the department by persons for the issuance of
9 resort retail liquor licenses within the resort area.

10 (b) Each applicant must submit plans showing the
11 location, appearance, and floor plan of the premises for
12 which application for a license is made.

13 (c) If an applicant otherwise qualifies for a resort
14 license but the premises to be licensed are still in
15 construction or are otherwise incomplete at the time of such
16 application, the department shall issue a letter stating
17 that the license will be issued at such time as the
18 qualifications for a licensed premises have been met,
19 setting forth such time limitations and requirements as the
20 department may establish.

21 (11) In addition to the restrictions on sale or transfer
22 of a license as provided in 16-4-204, no resort retail
23 liquor license may be sold or transferred for operation at a
24 location outside of the boundaries of the resort area.

25 ~~(12) A resort retail liquor license shall not be subject~~

1 ~~to the quote limitations set forth in 16-4-201, and if~~ If
2 the requirements of this section have been met, a resort
3 retail liquor license shall be issued by the department on
4 the basis that the department has determined that such
5 license is justified by public convenience and necessity, in
6 accordance with the procedure required in 16-4-207."

7 Section 10. Section 16-4-203, MCA, is amended to read:
8 "16-4-203. Determination of public convenience and
9 necessity. Any original license issued pursuant to ~~16-4-201~~
10 or 16-4-202 subsequent to April 30, 1974, shall be issued
11 only upon the department having first determined, upon a
12 hearing held pursuant to the Montana Administrative
13 Procedure Act, that the issuance of such license is
14 justified by public convenience and necessity."

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

1 persons in the partnership or interested in the business
 2 must appear on the license. Every license must be posted in
 3 a conspicuous place on the premises wherein the business
 4 authorized under the license is conducted, and such license
 5 shall be exhibited upon request to any authorized
 6 representative of the department or to any peace officer of
 7 the state of Montana.

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

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

20 (4) In the event of a major loss or damage to licensed
 21 premises by unforeseen natural causes or in case of
 22 expiration of lease of the licensed premises or in the event
 23 of eviction or increase of rent by the landlord (in case of
 24 rented licensed premises) or in case of proposed removal of
 25 license to premises as substantially suited for the retail

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

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

1 department.

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

5 ~~(i) the total number of all beverages licenses in the~~
6 ~~original quota area exceeded the quota for that area by at~~
7 ~~least 25% in the most recent census;~~

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

12 ~~(iii) the department finds, after a public hearing, that~~
13 ~~the public convenience and necessity would be served by such~~
14 ~~a transfer.~~

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

1 on application to the department with the consent of the
2 department, provided that the transferee qualifies under
3 this code.

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

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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 (g) 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 12. Section 16-4-208, MCA, is amended to read:
25 "16-4-208. Airport all-beverages license. (1) The

1 department of revenue shall issue one all-beverages license,
2 to be known as a public airport all-beverages license, for
3 use at each publicly owned airport served by scheduled
4 airlines and enplaning and deplaning a minimum total of
5 20,000 passengers annually when:

6 (a) application is made;

7 (b) upon finding that this license is justified by
8 public convenience and necessity, including the convenience
9 and necessity of the public traveling by scheduled airlines;
10 and

11 (c) following a hearing as provided in 16-4-207.

12 (2) Application shall be made by the agency owning and
13 operating the airport. The agency owning and operating the
14 airport may lease the airport all-beverages license to an
15 individual or entity approved by the department.

16 (3) A public airport all-beverages license and all
17 retail liquor sales thereunder shall be subject to all
18 statutes and rules governing all-beverages licenses.

19 ~~(4) The department of revenue shall issue a public~~
20 ~~airport all-beverages license to a qualified applicant~~
21 ~~regardless of the number of all-beverages licenses already~~
22 ~~issued within the all-beverages license quota area in which~~
23 ~~the airport is situated."~~

24 Section 13. 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) The permit fee under 16-4-301(1) is computed at the
19 rate of \$15 a day for each day beer is sold at those events
20 lasting 2 or more days but in no case be less than \$30.

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

24 (4) Passenger carrier licenses shall be issued upon
25 payment by the applicant of an annual license fee in the sum

1 of \$300.

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

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

7 (7) Each licensee licensed under ~~the quotes of 16-4-201~~
8 [section 7] shall pay an annual license fee as follows:

9 (a) except as hereinafter provided, for each license
10 outside of incorporated cities and incorporated towns or in
11 incorporated cities and incorporated towns with a population
12 of less than 2,000, \$400;

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

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

25 (d) for each license in incorporated cities with a

1 population of 10,000 or more or within a distance of 5 miles
2 thereof, measured in a straight line from the nearest
3 entrance of the premises to be licensed to the nearest
4 boundary of such city, \$800;

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

21 ~~(f) an applicant for the issuance of an original~~
22 ~~license to be located in areas described in subsection (d)~~
23 ~~of this subsection shall pay a one-time original license fee~~
24 ~~of \$20,000 for any such license issued. The one-time license~~
25 ~~fee of \$20,000 shall not apply to any transfer or renewal of~~

1 ~~a license duly issued prior to July 1, 1974. All licenses~~
2 ~~however, are subject to the annual renewal fee of \$800.~~

3 (8) The fee for one all-beverage license to a public
4 airport shall be \$800. This license is nontransferable.

5 (9) The license fees herein provided for are exclusive
6 of and in addition to other license fees chargeable in
7 Montana for the sale of alcoholic beverages.*

8 Section 14. Codification. Sections 4 through 8 are
9 intended to be codified as an integral part of Title 16,
10 chapter 4, and the provisions contained in Title 16 apply to
11 sections 4 through 8.

12 Section 15. Delayed repealer. Sections 16-4-105 and
13 16-4-201, MCA, are repealed effective July 1, 1995.

14 Section 16. Delayed effective date. Sections 4 through
15 13 are effective July 1, 1995.

-End-

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