

SENATE BILL NO. 338

INTRODUCED BY KEATING

IN THE SENATE

January 30, 1981	Introduced and referred to Committee on Business and Industry.
	Fiscal note requested.
February 5, 1981	Fiscal note returned.
February 14, 1981	Committee recommend bill do pass as amended. Report adopted.
February 16, 1981	Bill printed and placed on members' desks.
February 17, 1981	Second reading, do pass.
February 18, 1981	Correctly engrossed.
February 19, 1981	Third reading, passed. Ayes, 45; Noes, 3. Transmitted to House.

IN THE HOUSE

February 20, 1981	Introduced and referred to Committee on Business and Industry.
March 6, 1981	Committee recommend bill be concurred in. Report adopted.
March 9, 1981	Second reading, concurred in.
March 11, 1981	Third reading, concurred in. Ayes, 75; Noes, 19.

IN THE SENATE

March 12, 1981

Returned from House.  
Concurred in. Sent to  
enrolling.

Reported correctly enrolled.

*Senate* BILL NO. 338  
*Keating*

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 16-4-105, MCA, TO INCLUDE RESTAURANTS WITHIN THE CATEGORY OF PERSONS OR ESTABLISHMENTS THAT MAY BE LICENSED TO SELL BEER OR TABLE WINE, OR BOTH, IN THE ORIGINAL PACKAGES FOR OFF-PREMISES CONSUMPTION."

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

INTRODUCED BILL  
SB 338

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.  
 19 Nonretention of the beer license, for whatever reason, shall  
 20 mean automatic loss of the wine amendment 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, ~~a bona fide restaurant or prepared~~  
3 ~~food business, including a restaurant or prepared food~~  
4 ~~business holding a license to sell beer or beer and wine at~~  
5 ~~retail for on-premises consumption~~, or a drugstore licensed  
6 as a pharmacy. The number of such licenses that the  
7 department may issue is not limited by the provisions of  
8 subsection (1) of this section but shall be determined by  
9 the department in the exercise of its sound discretion, and  
10 the department may in the exercise of its sound discretion  
11 grant or deny any application for any such license or  
12 suspend or revoke any such license for cause."

-End-

STATE OF MONTANA

REQUEST NO. 279-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 3, 19 81, there is hereby submitted a Fiscal Note for SENATE BILL 338 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.

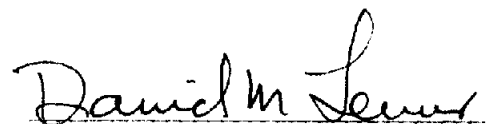
DESCRIPTION

An act to include restaurants within the category of persons or establishments that may be licensed to sell beer or table wine, or both, in the original packages for off-premises consumption.

FISCAL IMPACT

It is felt this proposal would have an insignificant effect on revenue.

PREPARED BY THE DEPARTMENT OF REVENUE



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-5-81

Approved by Committee  
on Business and Industry

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 6 ~~PERSONS--OR ESTABLISHMENTS THAT MAY BE LICENSED TO SELL BEER~~  
 7 ~~OR TABLE WINE,--OR--BOTH,--IN--THE--ORIGINAL--PACKAGES--FOR~~  
 8 ~~OFF-PREMISES CONSUMPTION PERMIT THE HOLDER OF A WINE LICENSE~~  
 9 ~~AMENDMENT TO SELL WINE FOR BOTH ON- AND OFF-PREMISES~~  
 10 ~~CONSUMPTION."~~

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

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

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

21 (a) the number of retail beer licenses that the  
 22 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

1 and towns shall be determined on the basis of population as  
 2 shown by the most recent official United States census  
 3 authorized by congress, as follows:

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

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

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

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

1 that may be issued for use within such cities and towns and  
 2 within a distance of 5 miles from the corporate limits  
 3 thereof. If two or more incorporated municipalities are  
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 11 limits of any incorporated city or incorporated town shall  
 12 be measured in a straight line from the nearest entrance of  
 13 the premises proposed for licensing to the nearest corporate  
 14 boundary of such city or town.

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

19 (d) such limitations do not prevent the issuance of a  
 20 nontransferable and nonassignable retail beer license to a  
 21 post of a nationally chartered veterans' organization or a  
 22 lodge of a recognized national fraternal organization if  
 23 such veterans' or fraternal organization has been in  
 24 existence for a period of 5 years or more prior to January  
 25 1, 1949;

1 (e) the number of retail beer licenses that the  
 2 department may issue for use at premises situated outside of  
 3 any incorporated city or incorporated town and outside of  
 4 the area within a distance of 5 miles from the corporate  
 5 limits thereof or for use at premises situated within any  
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12 (2) A person holding a license to sell beer for  
 13 consumption on the premises at retail may apply to the  
 14 department for an amendment to the license permitting the  
 15 holder to sell wine as well as beer. The division may issue  
 16 such amendment if it finds, on a satisfactory showing by the  
 17 applicant, that the sale of wine for consumption on the  
 18 premises would be supplementary to a restaurant or  
 19 prepared-food business. A person holding a beer-and-wine  
 20 license may sell wine for consumption on OR OFF the  
 21 premises. Nonretention of the beer license, for whatever  
 22 reason, shall mean automatic loss of the wine amendment  
 23 license.

24 (3) A retail license to sell beer or table wine, or  
 25 both, in the original packages for off-premises consumption



1 only may be issued to any person, firm, or corporation who  
2 is approved by the department as a fit and proper person,  
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10 department may issue is not limited by the provisions of  
11 subsection (1) of this section but shall be determined by  
12 the department in the exercise of its sound discretion, and  
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14 grant or deny any application for any such license or  
15 suspend or revoke any such license for cause."

-End-

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