

SENATE BILL NO. 461

INTRODUCED BY SENATE TAXATION COMMITTEE

GOODOVER, TOWE, McCALLUM, NORMAN

BY REQUEST OF THE SENATE TAXATION COMMITTEE

IN THE SENATE

February 13, 1981	Introduced and referred to Committee on Taxation.
February 21, 1981	Committee recommend bill do pass as amended. Report adopted.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass.
February 25, 1981	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading, passed. Ayes, 46; Noes, 3. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Business and Industry.
March 13, 1981	Committee recommend bill be concurred in. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in. Ayes, 81; Noes, 13.

IN THE SENATE

March 30, 1981	Returned from House. Concurred in. Sent to enrolling.
March 31, 1981	Correctly enrolled.
	Signed by President.
April 3, 1981	Delivered to Governor.
April 9, 1981	Returned from Governor with recommended amendments.
April 11, 1981	Second reading, Governor's amendments concurred in.
	On motion rules suspended and Governor's amendments placed on calendar for third reading this day.
	Third reading, Governor's amendments concurred in. Ayes, 49; Noms, 0. Transmitted to House.

IN THE HOUSE

IN THE SENATE

Senate BILL NO. 461

1 INTRODUCED BY Senate Taxation Committee

2 BY REQUEST OF THE SENATE TAXATION COMMITTEE

3 *Goodwin the McCallum Norman*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
5 RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED
6 FROM ONE QUOTA AREA TO ANOTHER FIVE YEARS AFTER THE TRANSFER
7 AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO
8 QUOTA AREAS THAT ARE LESS THAN 130 PERCENT OVER QUOTA, AN
9 INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202,
10 16-4-204, AND 16-4-501, MCA."

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

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

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

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

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

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

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

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

1 (6) (a) A license may be transferred to a new
2 ownership and to a location outside the quota area for which
3 it was originally issued only when the following criteria
4 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% 30% 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% 30% in the most
11 recent census; and

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

15 (b) * For 5 years after the transfer of a license
16 transferred between quota areas under this section
17 subsection (6)(a), the license may not be mortgaged or
18 pledged as security and may not be transferred to another
19 person except for a transfer by inheritance upon the death
20 of the licensee. A license transferred between quota areas
21 under this section may be held only by natural persons for 5
22 years following the transfer. For the purpose of this
23 section, natural persons shall not include limited
24 partnerships or other business entities of any kind in which
25 each natural person is not a full participant in the

1 ownership and operation of the business authorized by the
 2 license.

3 (c) After 5 years from the date of transfer of the
 4 license under subsection (6)(a), the license may not be
 5 considered to be issued under the quotas of 16-4-201. A
 6 license that is no longer considered to be part of the quota
 7 system may not be included in the computation to determine
 8 whether a quota area is 30% over quota for purposes of
 9 subsection (6)(a)(iii).

10 (d) Once a license is transferred to a new quota area
 11 under subsection (6)(a), it may not be transferred to
 12 another quota area or back to the original quota area.

13 (7) (a) Any all-beverage licensee is, upon the
 14 approval and in the discretion of the liquor division,
 15 entitled to a catering endorsement to his all-beverage
 16 license to allow the catering and sale of alcoholic
 17 beverages to persons attending a special event upon premises
 18 not otherwise licensed for the sale of alcoholic beverages,
 19 such beverages to be consumed on the premises where the
 20 event is held.

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

24 (c) A written application for each event for which the
 25 licensee intends to provide catering services, the written

1 approval of the catering application by the sponsor of the
 2 special event, and a fee of \$40 must be filed with the
 3 department at least 10 days prior to the event and shall
 4 describe the location of the premises where the event is to
 5 be held, the nature of the event, and the period during
 6 which the event is to be held. An all-beverage licensee who
 7 holds an endorsement granted under this subsection (7) may
 8 not receive approval to cater an event of which he is the
 9 sponsor. The catered event must be within 100 miles of the
 10 licensee's regular place of business. If obtained, the
 11 licensee shall display in a prominent place on those
 12 premises, the written approval from the department for each
 13 event which is catered pursuant to this subsection.

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

18 (e) The sale of alcoholic beverages pursuant to a
 19 catering endorsement is subject to the provisions of
 20 16-6-103.

21 (f) The sale of alcoholic beverages pursuant to a
 22 catering endorsement is subject to the provisions of
 23 16-3-306, unless entities named in 16-3-306 give their
 24 written approval.

25 (g) Except as above provided, no license shall be

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1 transferred or sold nor shall it be used for any place of
 2 business not described in the license; provided, however,
 3 that such license may be subject to mortgage and other valid
 4 liens, in which event the name of the mortgagee, upon
 5 application to and approval of the department, must be
 6 endorsed on the license.

7 (9) All licenses shall expire at midnight of June 30
 8 of each year.*

9 Section 2. Section 16-4-501, MCA, is amended to read:
 10 "16-4-501. License and permit fees. (1) Each beer
 11 licensee licensed to sell either beer or table wine only, or
 12 both beer and table wine, under the provisions of this code,
 13 shall pay an annual license fee as follows:

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

17 (b) each beer wholesaler, \$400; each table wine
 18 distributor, \$400;

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

21 (d) for a license to sell beer at retail for
 22 off-premises consumption only, the same as a retail beer
 23 license; for a license to sell table wine at retail for
 24 off-premises consumption only, either alone or in
 25 conjunction with beer, \$200;

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

3 (2) The permit fee under 16-4-301(1) is computed at
 4 the rate of \$15 a day for each day beer is sold at those
 5 events lasting 2 or more days but in no case be less than
 6 \$30.

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

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

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

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

18 (7) Each licensee licensed under the quotas of
 19 16-4-201 shall pay an annual license 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
 25 in incorporated cities with a population of more than 2,000

1 and 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
 6 in incorporated cities with a population of more than 5,000
 7 and less than 10,000 or within a distance of 5 miles
 8 thereof, measured in a straight line from the nearest
 9 entrance of the premises to be licensed to the nearest
 10 boundary of such 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) an applicant for the issuance of an original
 8 license to be located in areas described in subsection (d)
 9 of this subsection shall pay a one-time original license fee
 10 of \$20,000 for any such license issued. The one-time license
 11 fee of \$20,000 shall not apply to any transfer or renewal of
 12 a license duly issued prior to July 1, 1974. All licenses,
 13 however, are subject to the annual renewal fee of \$800.

14 (g) The holder of a license issued under the quotas of
 15 16-4-201 but which, pursuant to 16-4-204(6)(c), is no longer
 16 considered to be a quota license shall pay an annual fee
 17 equal to the annual fee that would be due if the license
 18 were still a quota license.

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

22 ~~(i) The license fees herein provided for are~~
 23 exclusive of and in addition to other license fees
 24 chargeable in Montana for the sale of alcoholic beverages."

25 Section 3. Section 16-4-202, MCA, is amended to read:

1 *16-4-202. Resort licenses. (1) It is the intent and
2 purpose of this section to encourage the growth of quality
3 recreational resort facilities in undeveloped areas of the
4 state and to provide for the orderly growth of existing
5 recreational sites by the establishment of resort areas
6 within which retail liquor licenses may be issued by the
7 department under the terms and as more particularly
8 prescribed below. In addition to the licenses as otherwise
9 set forth in [this act], the department may issue resort
10 retail liquor licenses in a resort area.

11 (2) For the purposes of this section, a resort area is
12 defined as a recreational facility meeting the
13 qualifications determined by the department as hereinafter
14 provided.

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

19 (4) In addition to the other requirements of this
20 code, a resort area, for the purposes of qualification for
21 the issuance of resort retail liquor license, must have a
22 current actual valuation of resort or recreational
23 facilities, including land and improvements thereon, of not
24 less than \$500,000, at least half of which valuation must be
25 for a structure or structures within the resort area, and

1 must be under the sole ownership or control of one person or
2 entity at the time of the filing of the resort area plat
3 referred to in subsection (5) of this section. The word
4 control shall mean lands held under lease, option, or
5 permit.

6 (5) The resort area must be determined by the resort
7 developer or landowner by a plat setting forth the resort
8 boundaries, designating the ownership of the lands within
9 the resort area, which plat must be verified by the resort
10 developer or landowner and filed with the department prior
11 to the filing of any applications by individuals for
12 licenses within the resort area. Such plat must show the
13 location and general design of the buildings and other
14 improvements to be built in said area in which resort retail
15 liquor licenses are to or may be located. A master plan for
16 the development of the area may be filed by the resort
17 developer in satisfaction of this section.

18 (6) Upon such filing the department shall forthwith
19 schedule a public hearing to be held in Helena, Montana, to
20 determine whether the facility proposed by the resort
21 developer or landowner is a resort area within the meaning
22 of the rules of the department. At least 30 days prior to
23 the date of the hearing, the department shall publish notice
24 thereof, with a description of the location of the proposed
25 resort area, in a newspaper published in the county or

1 counties in which the resort is located, once a week for 4
 2 consecutive weeks. Each resort developer or landowner
 3 shall, at the time of filing his application, pay to the
 4 department an amount sufficient to cover the costs of said
 5 publication.

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

9 (8) Within 30 days of the hearing, the department
 10 shall accept or reject the plat. If rejected the department
 11 must state its reasons and set forth the conditions, if any,
 12 under which the plat will be accepted, and the decision of
 13 the department may be reviewed pursuant to the review
 14 procedure set forth in 16-4-406.

15 (9) Once filed with the department, the boundaries of
 16 a resort may not be changed without full hearing as above
 17 provided and the prior approval of the department, which
 18 approval shall be according to public convenience and
 19 necessity.

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

24 (b) Each applicant must submit plans showing the
 25 location, appearance, and floor plan of the premises for

1 which application for a license is made.

2 (c) If an applicant otherwise qualifies for a resort
 3 license but the premises to be licensed are still in
 4 construction or are otherwise incomplete at the time of such
 5 application, the department shall issue a letter stating
 6 that the license will be issued at such time as the
 7 qualifications for a licensed premises have been met,
 8 setting forth such time limitations and requirements as the
 9 department may establish.

10 (11) ~~A resort license may not be mortgaged or pledged
 11 as security and may not be transferred to another person
 12 except for a transfer by inheritance upon the death of the
 13 licensee. In addition to the restrictions on sale or
 14 transfer of a license as provided in 16-4-204, no resort
 15 retail liquor license may be sold or transferred for
 16 operation at a location outside of the boundaries of the
 17 resort area.~~

18 (12) A resort retail liquor license shall not be
 19 subject to the quota limitations set forth in 16-4-201, and
 20 if the requirements of this section have been met, a resort
 21 retail liquor license shall be issued by the department on
 22 the basis that the department has determined that such
 23 license is justified by public convenience and necessity, in
 24 accordance with the procedure required in 16-4-207."

-End-

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Approved by Committee
on Taxation

1 SENATE BILL NO. 461
2 INTRODUCED BY SENATE TAXATION COMMITTEE
3 GOODOVER, TOWE, McCALLUM, NORMAN
4 BY REQUEST OF THE SENATE TAXATION COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
7 RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED
8 FROM ONE QUOTA AREA TO ANOTHER FIVE YEARS AFTER THE TRANSFER
9 AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO
10 QUOTA AREAS THAT ARE LESS THAN ±30 133 PERCENT OVER QUOTA,
11 AN INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202,
12 AND 16-4-204, AND-4-4-50~~4~~ MCA."

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

14 Section 1. Section 16-4-204, MCA, is amended to read:
15 "16-4-204. Contents of license -- posting -- privilege
16 -- transfer -- expiration. (1) Every license issued under
17 this part shall set forth the name of the person to whom
18 issued, the location, by street and number or other
19 appropriate specific description of location if no street
20 address exists, of the premises where the business is to be
21 carried on under said license, and such other information as
22 the department shall deem necessary. If the licensee is a
23 partnership or if more than one person has any interest in
24 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
 3 ownership and to a location outside the quota area for which
 4 it was originally issued only when the following criteria
 5 are met:

6 (i) the total number of all-beverages licenses in the
 7 original quota area exceeded the quota for that area by at
 8 least 25% ~~30%~~ 25% in the most recent census;

9 (ii) the total number of all-beverages licenses in the
 10 quota area to which the license would be transferred did not
 11 exceed that area's quota by more than 25% ~~30%~~ 33% in the
 12 most recent census; and

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

16 (b) A For 5 years after the transfer of a license
 17 transferred between quota areas under this section
 18 subsection (6)(a), the license may not be mortgaged or
 19 pledged as security and may not be transferred to another
 20 person except for a transfer by inheritance upon the death
 21 of the licensee. A license transferred between quota areas
 22 under this section may be held only by natural persons for 5
 23 years following the transfer. For the purpose of this
 24 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 ~~After 5 years from the date of transfer of the
 5 license under subsection (6)(a), the license may not be
 6 considered to be issued under the quota of 16-4-201. A
 7 license that is no longer considered to be part of the quota
 8 system may not be included in the computation to determine
 9 whether a quota area is 30% over quota for purposes of
 10 subsection (6)(a)(i).~~

11 ~~(d)(C) Once a license is transferred to a new quota
 12 area under subsection (6)(a), it may not be transferred to
 13 another quota area or back to the original quota area.~~

14 (7) (a) Any all-beverage licensee is, upon the
 15 approval and in the discretion of the liquor divisions,
 16 entitled to a catering endorsement to his all-beverage
 17 license to allow the catering and sale of alcoholic
 18 beverages to persons attending a special event upon premises
 19 not otherwise licensed for the sale of alcoholic beverages,
 20 such beverages to be consumed on the premises where the
 21 event is held.

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

25 (c) A written application for each event for which the

1 licensee intends to provide catering services, the written
 2 approval of the catering application by the sponsor of the
 3 special event, and a fee of \$40 must be filed with the
 4 department at least 10 days prior to the event and shall
 5 describe the location of the premises where the event is to
 6 be held, the nature of the event, and the period during
 7 which the event is to be held. An all-beverage licensee who
 8 holds an endorsement granted under this subsection (7) may
 9 not receive approval to cater an event of which he is the
 10 sponsor. The catered event must be within 100 miles of the
 11 licensee's regular place of business. If obtained, the
 12 licensee shall display in a prominent place on those
 13 premises, the written approval from the department for each
 14 event which is catered pursuant to this subsection.

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

19 (e) The sale of alcoholic beverages pursuant to a
 20 catering endorsement is subject to the provisions of
 21 16-6-103.

22 (f) The sale of alcoholic beverages pursuant to a
 23 catering endorsement is subject to the provisions of
 24 16-3-306, unless entities named in 16-3-306 give their
 25 written approval.

1 (8) Except as above provided, no license shall be
 2 transferred or sold nor shall it be used for any place of
 3 business not described in the license; provided, however,
 4 that such license may be subject to mortgage and other valid
 5 liens, in which event the name of the mortgagee, upon
 6 application to and approval of the department, must be
 7 endorsed on the license.

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

10 Section 2---Section 16-4-581v-MCAv-is-amended-to--reads
 11 "16-4-581v--license--and--permit--feesv---(f) Each beer
 12 licensee--licensed--to--sell--either--beer--or--table--wine--only--or
 13 both--beer--and--table--wine--under--the--provisions--of--this--codev
 14 shall--pay--an--annual--license--fee--as--follows
 15 (f) Each brewer--wherever--located--whose--product--is
 16 sold--or--offered--for--sale--within--the--state,--\$500;--for--each
 17 storage--depot,--\$400;
 18 (f) Each beer--wholesaler,--\$400;--each--table--wine
 19 distributor,--\$400;

20 (f) Each beer--retailer,--\$200;--with--a--wine--license
 21 spending--an--additional--\$200
 22 (f) For--a--license--to--sell--beer--at--retail--for
 23 off--premises--consumption--only,--the--same--as--a--retail--beer
 24 licensee--for--a--license--to--sell--table--wine--at--retail--for
 25 off--premises--consumption--only,--either--alone--or--in

1 conjunction--with--beer,--\$200;
 2 (f) Any--unit--of--a--nationally--chartered--veterans--
 3 organization,--\$50;
 4 (f) The--permit--fee--under 16-4-301(f) is--computed--at
 5 the--rate--of--\$15-a-day--for--each--day--beer--is--sold--at--those
 6 events--lasting--2--or--more--days--but--in--no--case--be--less--than
 7 \$30;
 8 (f) The--permit--fee--under 16-4-301(f) is--\$10--for--the
 9 sale--of--beer--only--or--\$20--for--the--sale--of--all--alcoholic
 10 beverages;
 11 (f) Passenger--carrier--licenses--shall--be--issued--upon
 12 payment--by--the--applicant--of--an--annual--license--fee--in--the--sum
 13 of--\$300;
 14 (f) The--annual--license--fee--for--a--license--to--sell--wine
 15 on--the--premises,--when--issued--as--an--amendment--to--a--beer--only
 16 license,--is--\$200;
 17 (f) The--annual--fee--for--resort--retail--liquor--licenses
 18 within--a--given--resort--area--shall--be--\$2,000--for--each--license;
 19 (f) Each--licensee--licensed--under--the--quotas--of
 20 16-4-201--shall--pay--an--annual--license--fee--as--follows
 21 (f) Except--as--hereinafter--provided,--for--each--license
 22 outside--of--incorporated--cities--and--incorporated--towns--or--in
 23 incorporated--cities--and--incorporated--towns--with--a--population
 24 of--less--than--2,000,--\$400;
 25 (f) Except--as--hereinafter--provided,--for--each--license

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

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

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

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

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

8 (f) an--applicant--for--the--issuance--of--an--original
 9 license--to--be--located--in--areas--described--in--subsection--(d)
10 of--this--subsection--shall--pay--a--one--time--original--license--fee
11 of--\$20,000--for--any--such--license--issued--The--one--time--license
12 fee--of--\$20,000--shall--not--apply--to--any--transfer--or--renewal--of
13 a--license--duly--issued--prior--to--July--1--1974--All--licenses,
14 however--are--subject--to--the--annual--renewal--fee--of--\$600;

15 (g) The--holder--of--a--license--issued--under--the--quotas--of
 16 16--4--281--but--which--pursuant--to--16--4--294--title--1--is--no--longer
 17 considered--to--be--a--quota--license--shall--pay--an--annual--fee
 18 equal--to--the--annual--fee--that--would--be--due--if--the--license
 19 were--still--a--quota--license.

20 (h) The--fee--for--one--all--beverage--license--to--a
 21 public--airport--shall--be--\$600--This--license--is
 22 nontransferable.

23 (i) The--license--fees--herein--provided--for--are
 24 exclusive--of--and--in--addition--to--other--license--fees
 25 chargeable--in--Montana--for--the--sale--of--alcoholic--beverages."

1 Section 2. Section 16-4-202, MCA, is amended to read:

2 "16-4-202. Resort licenses. (1) It is the intent and

3 purpose of this section to encourage the growth of quality

4 recreational resort facilities in undeveloped areas of the

5 state and to provide for the orderly growth of existing

6 recreational sites by the establishment of resort areas

7 within which retail liquor licenses may be issued by the

8 department under the terms and as more particularly

9 prescribed below. In addition to the licenses as otherwise

10 set forth in [this act], the department may issue resort

11 retail liquor licenses in a resort area.

12 (2) For the purposes of this section, a resort area is

13 defined as a recreational facility meeting the

14 qualifications determined by the department as hereinafter

15 provided.

16 (3) The department shall determine that the area for

17 which licenses are to be issued is a resort area, such

18 determination to be made under and pursuant to rules to be

19 first promulgated on or before December 31, 1975.

20 (4) In addition to the other requirements of this

21 code, a resort area, for the purposes of qualification for

22 the issuance of resort retail liquor license, must have a

23 current actual valuation of resort or recreational

24 facilities, including land and improvements thereon, of not

25 less than \$500,000, at least half of which valuation must be

1 for a structure or structures within the resort area, and

2 must be under the sole ownership or control of one person or

3 entity at the time of the filing of the resort area plat

4 referred to in subsection (5) of this section. The word

5 control shall mean lands held under lease, option, or

6 permit.

7 (5) The resort area must be determined by the resort

8 developer or landowner by a plat setting forth the resort

9 boundaries, designating the ownership of the lands within

10 the resort area, which plat must be verified by the resort

11 developer or landowner and filed with the department prior

12 to the filing of any applications by individuals for

13 licenses within the resort area. Such plat must show the

14 location and general design of the buildings and other

15 improvements to be built in said area in which resort retail

16 liquor licenses are to or may be located. A master plan for

17 the development of the area may be filed by the resort

18 developer in satisfaction of this section.

19 (6) Upon such filing the department shall forthwith

20 schedule a public hearing to be held in Helena, Montana, to

21 determine whether the facility proposed by the resort

22 developer or landowner is a resort area within the meaning

23 of the rules of the department. At least 30 days prior to

24 the date of the hearing, the department shall publish notice

25 thereof, with a description of the location of the proposed

1 resort area, in a newspaper published in the county or
 2 counties in which the resort is located, once a week for 4
 3 consecutive weeks. Each resort developer or landowner
 4 shall, at the time of filing his application, pay to the
 5 department an amount sufficient to cover the costs of said
 6 publication.

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

10 (8) Within 30 days of the hearing, the department
 11 shall accept or reject the plat. If rejected the department
 12 must state its reasons and set forth the conditions, if any,
 13 under which the plat will be accepted, and the decision of
 14 the department may be reviewed pursuant to the review
 15 procedure set forth in 16-4-406.

16 (9) Once filed with the department, the boundaries of
 17 a resort may not be changed without full hearing as above
 18 provided and the prior approval of the department, which
 19 approval shall be according to public convenience and
 20 necessity.

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

25 (b) Each applicant must submit plans showing the

1 location, appearance, and floor plan of the premises for
 2 which application for a license is made.
 3 (c) If an applicant otherwise qualifies for a resort
 4 license but the premises to be licensed are still in
 5 construction or are otherwise incomplete at the time of such
 6 application, the department shall issue a letter stating
 7 that the license will be issued at such time as the
 8 qualifications for a licensed premises have been met,
 9 setting forth such time limitations and requirements as the
 10 department may establish.

11 (11) A resort license may not be mortgaged or pledged
 12 as security and may not be transferred to another person
 13 except for a transfer by inheritance upon the death of the
 14 licensee. In addition to--the--restrictions--on--sale--or
 15 transfer--of--a--license--as--provided--in--16-4-204, no resort
 16 retail liquor license may be sold or transferred for
 17 operation at a location outside of the boundaries of the
 18 resort area.

19 (12) A resort retail liquor license shall not be
 20 subject to the quota limitations set forth in 16-4-201, and
 21 if the requirements of this section have been met, a resort
 22 retail liquor license shall be issued by the department on
 23 the basis that the department has determined that such
 24 license is justified by public convenience and necessity, in
 25 accordance with the procedure required in 16-4-207."

SENATE BILL NO. 461
INTRODUCED BY SENATE TAXATION COMMITTEE
GOODOVER, TOWE, MCCALLUM, NORMAN
BY REQUEST OF THE SENATE TAXATION COMMITTEE

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
7 RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED
8 FROM ONE QUOTA AREA TO ANOTHER FIVE YEARS AFTER THE TRANSFER
9 AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO
10 QUOTA AREAS THAT ARE LESS THAN ~~130~~ 133 PERCENT OVER QUOTA,
11 AN INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202,
12 AND 16-4-204, AND 16-4-501, MCA."

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

15 Section 1. 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
 3 ownership and to a location outside the quota area for which
 4 it was originally issued only when the following criteria
 5 are met:

6 (i) the total number of all-beverages licenses in the
 7 original quota area exceeded the quota for that area by at
 8 least 25% ~~30%~~ 25% in the most recent census;

9 (ii) the total number of all-beverages licenses in the
 10 quota area to which the license would be transferred did not
 11 exceed that area's quota by more than 25% ~~30%~~ 33% in the
 12 most recent census; and

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

16 (b) For 5 years after the transfer of a license
 17 transferred between quota areas under this section
 18 subsection (6)(a), the license may not be mortgaged or
 19 pledged as security and may not be transferred to another
 20 person except for a transfer by inheritance upon the death
 21 of the licensee. A license transferred between quota areas
 22 under this section may be held only by natural persons for 5
 23 years following the transfer. For the purpose of this
 24 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 ~~After 5 years from the date of transfer of the
 5 license under subsection (6)(a), the licensee may not be
 6 considered to be issued under the quota of 16-3-201. A
 7 license that is no longer considered to be part of the quota
 8 system may not be included in the computation to determine
 9 whether a quota area is 30% over quota for purposes of
 10 subsection (6)(a).~~

11 ~~(C) Once a license is transferred to a new quota
 12 area under subsection (6)(a), it may not be transferred to
 13 another quota area or back to the original quota area.~~

14 (7) (a) Any all-beverage licensee is, upon the
 15 approval and in the discretion of the liquor division,
 16 entitled to a catering endorsement to his all-beverage
 17 license to allow the catering and sale of alcoholic
 18 beverages to persons attending a special event upon premises
 19 not otherwise licensed for the sale of alcoholic beverages,
 20 such beverages to be consumed on the premises where the
 21 event is held.

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

25 (c) A written application for each event for which the

1 licensee intends to provide catering services, the written
 2 approval of the catering application by the sponsor of the
 3 special event, and a fee of \$40 must be filed with the
 4 department at least 10 days prior to the event and shall
 5 describe the location of the premises where the event is to
 6 be held, the nature of the event, and the period during
 7 which the event is to be held. An all-beverage licensee who
 8 holds an endorsement granted under this subsection (7) may
 9 not receive approval to cater an event of which he is the
 10 sponsor. The catered event must be within 100 miles of the
 11 licensee's regular place of business. If obtained, the
 12 licensee shall display in a prominent place on those
 13 premises, the written approval from the department for each
 14 event which is catered pursuant to this subsection.

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

19 (e) The sale of alcoholic beverages pursuant to a
 20 catering endorsement is subject to the provisions of
 21 16-6-103.

22 (f) The sale of alcoholic beverages pursuant to a
 23 catering endorsement is subject to the provisions of
 24 16-3-306, unless entities named in 16-3-306 give their
 25 written approval.

1 (8) Except as above provided, no license shall be
 2 transferred or sold nor shall it be used for any place of
 3 business not described in the license; provided, however,
 4 that such license may be subject to mortgage and other valid
 5 liens, in which event the name of the mortgagee, upon
 6 application to and approval of the department, must be
 7 endorsed on the license.

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

10 Section 2---Section 16-4-501v-MCA is amended to read
 11 "16-4-501v--license--and--permit--fees--{(1)}--Each--beer
 12 licensee--licensed--to--sell--either--beer--or--table--wine--only--or
 13 both--beer--and--table--wine--under--the--provisions--of--this--code
 14 shall--pay--an--annual--license--fee--as--follows
 15 {(a)}--each--brewery--wherever--located--whose--product--is
 16 sold--or--offered--for--sale--within--the--state--\$500+--for--each
 17 storage--depot--\$400+
 18 {(b)}--each--beer--wholesaler--\$400+--each--table--wine
 19 distributor--\$400+
 20 {(c)}--each--beer--retailer--\$200+--with--a--wine--license
 21 amendment--an--additional--\$200+
 22 {(d)}--for--a--license--to--sell--beer--at--retail--for
 23 off--premises--consumption--only--the--same--as--a--retail--beer
 24 license--for--a--license--to--sell--table--wine--at--retail--for
 25 off--premises--consumption--only--either--stone--or--in

1 conjunction--with--beer--\$200+
 2 {(e)}--any--unit--of--a--nationally--chartered--veterans--
 3 organization--\$50+
 4 {(f)}--The--permit--fee--under--16-4-301{(b)}--is--computed--at
 5 the--rate--of--\$15--a--day--for--each--day--beer--is--sold--at--those
 6 events--lasting--2--or--more--days--but--in--no--case--be--less--than
 7 \$30+
 8 {(g)}--The--permit--fee--under--16-4-301{(2)}--is--\$10--for--the
 9 sale--of--beer--only--or--\$20--for--the--sale--of--all--alcoholic
 10 beverages.
 11 {(h)}--Passenger--carrier--licenses--shall--be--issued--upon
 12 payment--by--the--applicant--of--an--annual--license--fee--in--the--sum
 13 of--\$300+
 14 {(i)}--The--annual--license--fee--for--a--license--to--sell--wine
 15 on--the--premises--when--issued--as--an--amendment--to--a--beer--only
 16 license--is--\$200+
 17 {(j)}--The--annual--fee--for--resort--retail--liquor--licenses
 18 within--a--given--resort--area--shall--be--\$2,000--for--each--license
 19 {(k)}--Each--licensee--licensed--under--the--quotas--of
 20 16-4-201--shall--pay--an--annual--license--fee--as--follows:
 21 {(l)}--except--as--hereinafter--provided--for--each--license
 22 outside--of--incorporated--cities--and--incorporated--towns--or--in
 23 incorporated--cities--and--incorporated--towns--with--a--population
 24 of--less--than--2,000,--\$400+
 25 {(m)}--except--as--hereinafter--provided--for--each--license

1 in-incorporated-cities-with-a-population-of-more-than--2000
 2 and-less-than-5,000-or-within-a-distance-of-5-miles-thereof,
 3 measured-in-a-straight-line-from-the-nearest-entrance-of-the
 4 premises--to--be--licensed--to--the-nearest-boundary-of-such
 5 city--\$600;
 6

7 (c)--except-as-hereinafter-provided,--for--each--license
 8 in--incorporated-cities-with-a-population-of-more-than-5,000
 9 and-less-than--10,000--or--within--a--distance--of--5--miles
 10 thereof--measured--in--a--straight--line--from--the--nearest
 11 entrance--of--the--premises--to--be--licensed--to--the--nearest
 12 boundary--of--such--city--\$650;
 13

14 (d)--for--each--license--in--incorporated-cities-with-a
 15 population-of--10,000-or-more-or-within-a-distance-of-5-miles
 16 thereof,--measured--in--a--straight--line--from--the--nearest
 17 entrance--of--the--premises--to--be--licensed--to--the--nearest
 18 boundary--of--such--city--\$800;
 19

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

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

8 (f)--an--applicant--for--the--issuance--of--an--original
 9 license--to--be--located--in--areas--described--in--subsection--(d)
 10 of--this--subsection--shall--pay--a--one--time--original--license--fee
 11 of--\$20,000--for--any--such--license--issued--The--one--time--license
 12 fee--of--\$20,000--shall--not--apply--to--any--transfer--or--renewal--of
 13 a--license--duly--issued--prior--to--July--1--1974--All--licenses
 14 however--are--subject--to--the--annual--renewal--fee--of--\$600;

15 (g)--The--holder--of--a--license--issued--under--the--quotas--of
 16 16-4-201--but--which--pursuant--to--16-4-204--is--no--longer
 17 considered--to--be--a--quota--license--shall--pay--an--annual--fee
 18 equal--to--the--annual--fee--that--would--be--due--if--the--license
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20 (h)--The--fee--for--one--all--beverage--license--to--a
 21 public--airport--shall--be--\$800--This--license--is
 22 nontransferable;

23 (i)--The--license--fees--herein--provided--for--are
 24 exclusive--of--and--in--addition--to--other--license--fees
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8 department under the terms and as more particularly

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12 (2) For the purposes of this section, a resort area is

13 defined as a recreational facility meeting the

14 qualifications determined by the department as hereinafter

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17 which licenses are to be issued is a resort area, such

18 determination to be made under and pursuant to rules to be

19 first promulgated on or before December 31, 1975.

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21 code for a resort area, for the purposes of qualification for

22 the issuance of resort retail liquor license, must have a

23 current actual valuation of resort or recreational

24 facilities, including land and improvements thereon, of not

25 less than \$500,000, at least half of which valuation must be

1 for a structure or structures within the resort area, and

2 must be under the sole ownership or control of one person or

3 entity at the time of the filing of the resort area plat

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 18 resort area.

19 (12) A resort retail liquor license shall not be
 20 subject to the quota limitations set forth in 16-4-201, and
 21 if the requirements of this section have been met, a resort
 22 retail liquor license shall be issued by the department on
 23 the basis that the department has determined that such
 24 license is justified by public convenience and necessity, in
 25 accordance with the procedure required in 16-4-207."

SENATE BILL NO. 461
INTRODUCED BY SENATE TAXATION COMMITTEE
GODDOVER, TOWE, McCALLUM, NORMAN
BY REQUEST OF THE SENATE TAXATION COMMITTEE

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
7 RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED
8 FROM ONE QUOTA AREA TO ANOTHER FIVE YEARS AFTER THE TRANSFER
9 AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO
10 QUOTA AREAS THAT ARE LESS THAN ~~100~~ 133 PERCENT OVER QUOTA,
11 AN INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202,
12 AND 16-4-204, AND 16-4-50~~1~~ MCA."

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

15 Section 1. 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.

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
 3 ownership and to a location outside the quota area for which
 4 it was originally issued only when the following criteria
 5 are met:

6 (i) the total number of all-beverages licenses in the
 7 original quota area exceeded the quota for that area by at
 8 least 25% ~~30%~~ 25% in the most recent census;

9 (ii) the total number of all-beverages licenses in the
 10 quota area to which the license would be transferred did not
 11 exceed that area's quota by more than 25% ~~30%~~ 33% in the
 12 most recent census; and

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

16 (b) A For 5 years after the transfer of a license
 17 transferred between quota areas under this section
 18 subsection (6)(a), the license may not be mortgaged or
 19 pledged as security and may not be transferred to another
 20 person except for a transfer by inheritance upon the death
 21 of the licensee. A license transferred between quota areas
 22 under this section may be held only by natural persons for 5
 23 years following the transfer. For the purpose of this
 24 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 ~~if--After--5--years--from--the--date--of--transfer--of--the~~
 5 ~~licensee--under--subsection--6(6)(a)--the--license--may--not--be~~
 6 ~~considered--to--be--issued--under--the--quotas--of--16-4-201--A~~
 7 ~~license--that--is--no--longer--considered--to--be--part--of--the--quota~~
 8 ~~system--may--not--be--included--in--the--computation--to--determine~~
 9 ~~whether--a--quota--area--is--30--over--quota--for--purposes--of~~
 10 ~~subsection--6(6)(a)~~

11 ~~that~~(c) Once a license is transferred to a new quota
 12 area under subsection (6)(a), it may not be transferred to
 13 another quota area or back to the original quota area.

14 (7) (a) Any all-beverage licensee is, upon the
 15 approval and in the discretion of the liquor division,
 16 entitled to a catering endorsement to his all-beverage
 17 license to allow the catering and sale of alcoholic
 18 beverages to persons attending a special event upon premises
 19 not otherwise licensed for the sale of alcoholic beverages,
 20 such beverages to be consumed on the premises where the
 21 event is held.

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

25 (c) A written application for each event for which the

1 licensee intends to provide catering services, the written
 2 approval of the catering application by the sponsor of the
 3 special event, and a fee of \$40 must be filed with the
 4 department at least 10 days prior to the event and shall
 5 describe the location of the premises where the event is to
 6 be held, the nature of the event, and the period during
 7 which the event is to be held. An all-beverage licensee who
 8 holds an endorsement granted under this subsection (7) may
 9 not receive approval to cater an event of which he is the
 10 sponsor. The catered event must be within 100 miles of the
 11 licensee's regular place of business. If obtained, the
 12 licensee shall display in a prominent place on those
 13 premises, the written approval from the department for each
 14 event which is catered pursuant to this subsection.

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

19 (e) The sale of alcoholic beverages pursuant to a
 20 catering endorsement is subject to the provisions of
 21 16-6-103.

22 (f) The sale of alcoholic beverages pursuant to a
 23 catering endorsement is subject to the provisions of
 24 16-3-306, unless entities named in 16-3-306 give their
 25 written approval.

1 (8) Except as above provided, no license shall be
 2 transferred or sold nor shall it be used for any place of
 3 business not described in the license; provided, however,
 4 that such license may be subject to mortgage and other valid
 5 liens, in which event the name of the mortgagee, upon
 6 application to and approval of the department, must be
 7 endorsed on the license.

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

10 Section 2---Section 16-4-501v-MCA, is amended to read:
 11 "16-4-501v--license--and--permit--fees---(f)---each--beer
 12 licensee--licensed--to--sell--either--beer--or--table--wine--only--or
 13 both--beer--and--table--wine,--under--the--provisions--of--this--code--
 14 shall--pay--an--annual--license--fee--as--follows--
 15 (f)---each--brewery--wherever--located--whose--product--is
 16 sold--or--offered--for--sale--within--the--state--\$500+--for--each
 17 storage--depot--\$400+
 18 (f)---each--beer--wholesaler,--\$400+--each--table--wine
 19 distributor,--\$400+
 20 (f)---each--beer--retailer,--\$200+--with--a--wine--license

21 amendment--an--additional--\$200+
 22 (f)---for--a--license--to--sell--beer--at--retail--for
 23 off--premises--consumption--only--the--same--as--a--retail--beer
 24 licensee--for--a--license--to--sell--table--wine--at--retail--for
 25 off--premises--consumption--only--either--alone--or--in

1 conjunction--with--beer--\$200+
 2 (f)---any--unit--of--a--nationatty--chartered--veterans--
 3 organization--\$50+
 4 (f)---the--permit--fee--under--16-4-301(2)--is--computed--at
 5 the--rate--of--\$15--a--day--for--each--day--beer--is--sold--at--those
 6 events--lasting--2--or--more--days--but--in--no--case--be--less--than
 7 \$30+
 8 (f)---the--permit--fee--under--16-4-301(2)--is--\$10--for--the
 9 sale--of--beer--only--or--\$20--for--the--sale--of--all--alcoholic
 10 beverages--
 11 (f)---Passenger--carrier--licenses--shall--be--issued--upon
 12 payment--by--the--applicant--of--an--annual--license--fee--in--the--sum
 13 of--\$300+
 14 (f)---the--annual--license--fee--for--a--license--to--sell--wine
 15 on--the--premises--when--issued--as--an--amendment--to--a--beer--only
 16 licensee--is--\$200+
 17 (f)---the--annual--fee--for--resort--retail--liquor--licenses
 18 within--a--given--resort--area--shall--be--\$2,000--for--each--license--
 19 (f)---Each--licensee--licensed--under--the--quotes--of
 20 16-4-201--shall--pay--an--annual--license--fee--as--follows--
 21 (f)---except--as--hereinafter--provided--for--each--license
 22 outside--of--incorporated--cities--and--incorporated--towns--or--in
 23 incorporated--cities--and--incorporated--towns--with--a--population
 24 of--less--than--2,000--\$400+
 25 (f)---except--as--hereinafter--provided--for--each--license

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

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

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

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

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

8 (f)--an--applicant--for--the--issuance--of--an--original
 9 license--to--be--located--in--areas--described--in--subsection--(d)
 10 of--this--subsection--shall--pay--a--one--time--original--license--fee
 11 of--\$20,000--for--any--such--license--issued--the--one--time--license
 12 fee--of--\$20,000--shall--not--apply--to--any--transfer--or--renewal--of
 13 a--license--duty--issued--prior--to--duty--in--1974--All--licenses,
 14 however,--are--subject--to--the--annual--renewal--fee--of--\$800;

15 (g)--the--holder--of--a--license--issued--under--the--quotas--of
 16 16--4--20--but--which--pursuant--to--16--4--204(f)(6)fei--is--no--longer

17 considered--to--be--a--quota--license--shall--pay--an--annual--fee
 18 equal--to--the--annual--fee--that--would--be--due--if--the--license
 19 were--still--a--quota--license.

20 (h)--The--fee--for--one--all--beverage--license--to--a
 21 public--airport--shall--be--\$800--This--license--is
 22 nontransferable.

23 (i)--The--license--fees--herein--provided--for--are
 24 exclusive--of--and--in--addition--to--other--license--fees
 25 chargeable--in--Montana--for--the--sale--of--alcoholic--beverages--*

1 Section 2. Section 16-4-202, MCA, is amended to read:

2 "16-4-202. Resort licenses. (1) It is the intent and

3 purpose of this section to encourage the growth of quality

4 recreational resort facilities in undeveloped areas of the

5 state and to provide for the orderly growth of existing

6 recreational sites by the establishment of resort areas

7 within which retail liquor licenses may be issued by the

8 department under the terms and as more particularly

9 prescribed below. In addition to the licenses as otherwise

10 set forth in [this act], the department may issue resort

11 retail liquor licenses in a resort area.

12 (2) For the purposes of this section, a resort area is

13 defined as a recreational facility meeting the

14 qualifications determined by the department as hereinafter

15 provided.

16 (3) The department shall determine that the area for

17 which licenses are to be issued is a resort area, such

18 determination to be made under and pursuant to rules to be

19 first promulgated on or before December 31, 1975.

20 (4) In addition to the other requirements of this

21 code, a resort area, for the purposes of qualification for

22 the issuance of a resort retail liquor license, must have a

23 current actual valuation of resort or recreational

24 facilities, including land and improvements thereon, of not

25 less than \$500,000, at least half of which valuation must be

1 for a structure or structures within the resort area, and

2 must be under the sole ownership or control of one person or

3 entity at the time of the filing of the resort area plat

4 referred to in subsection (5) of this section. The word

5 control shall mean lands held under lease, option, or

6 permit.

7 (5) The resort area must be determined by the resort

8 developer or landowner by a plat setting forth the resort

9 boundaries, designating the ownership of the lands within

10 the resort area, which plat must be verified by the resort

11 developer or landowner and filed with the department prior

12 to the filing of any applications by individuals for

13 licenses within the resort area. Such plat must show the

14 location and general design of the buildings and other

15 improvements to be built in said area in which resort retail

16 liquor licenses are to or may be located. A master plan for

17 the development of the area may be filed by the resort

18 developer in satisfaction of this section.

19 (6) Upon such filing the department shall forthwith

20 schedule a public hearing to be held in Helena, Montana, to

21 determine whether the facility proposed by the resort

22 developer or landowner is a resort area within the meaning

23 of the rules of the department. At least 30 days prior to

24 the date of the hearing, the department shall publish notice

25 thereof, with a description of the location of the proposed

1 resort area, in a newspaper published in the county or
 2 counties in which the resort is located, once a week for 4
 3 consecutive weeks. Each resort developer or landowner
 4 shall, at the time of filing his application, pay to the
 5 department an amount sufficient to cover the costs of said
 6 publication.

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

10 (8) Within 30 days of the hearing, the department
 11 shall accept or reject the plat. If rejected the department
 12 must state its reasons and set forth the conditions, if any,
 13 under which the plat will be accepted, and the decision of
 14 the department may be reviewed pursuant to the review
 15 procedure set forth in 16-4-406.

16 (9) Once filed with the department, the boundaries of
 17 a resort may not be changed without full hearing as above
 18 provided and the prior approval of the department, which
 19 approval shall be according to public convenience and
 20 necessity.

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

25 (b) Each applicant must submit plans showing the

1 location, appearance, and floor plan of the premises for
 2 which application for a license is made.

3 (c) If an applicant otherwise qualifies for a resort
 4 license but the premises to be licensed are still in
 5 construction or are otherwise incomplete at the time of such
 6 application, the department shall issue a letter stating
 7 that the license will be issued at such time as the
 8 qualifications for a licensed premises have been met,
 9 setting forth such time limitations and requirements as the
 10 department may establish.

11 (11) A resort license may not be mortgaged or pledged
 12 as security and may not be transferred to another person
 13 except for a transfer by inheritance upon the death of the
 14 licensee. In addition to--the--restrictions--on--sale--or
 15 transfer--of--a--license--as--provided--in--16-4-284, no resort
 16 retail liquor license may be sold or transferred for
 17 operation at a location outside of the boundaries of the
 18 resort area.

19 (12) A resort retail liquor license shall not be
 20 subject to the quota limitations set forth in 16-4-201, and
 21 if the requirements of this section have been met, a resort
 22 retail liquor license shall be issued by the department on
 23 the basis that the department has determined that such
 24 license is justified by public convenience and necessity, in
 25 accordance with the procedure required in 16-4-207."

SENATE BILL NO. 461
INTRODUCED BY SENATE TAXATION COMMITTEE
GOODOVER, TOWE, McCALLUM, NORMAN
BY REQUEST OF THE SENATE TAXATION COMMITTEE

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
7 RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED
8 FROM ONE QUOTA AREA TO ANOTHER 5 YEARS AFTER THE TRANSFER
9 AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO
10 QUOTA AREAS THAT ARE LESS THAN ~~±30~~ 133 PERCENT OVER QUOTA,
11 AN INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202▼
12 AND 16-4-204, AND 16-4-504, MCA."

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

15 Section 1. 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
 3 ownership and to a location outside the quota area for which
 4 it was originally issued only when the following criteria
 5 are met:

6 (i) the total number of all-beverages licenses in the
 7 original quota area exceeded the quota for that area by at
 8 least 25% ~~30%~~ ~~25%~~ in the most recent census;

9 (ii) the total number of all-beverages licenses in the
 10 quota area to which the license would be transferred did not
 11 exceed that area's quota by more than 25% ~~30%~~ ~~33%~~ in the
 12 most recent census; and

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

16 (b) A For 5 years after the transfer of a license
 17 transferred between quota areas under this--section
 18 subsection (6)(a), the license may not be mortgaged or
 19 pledged as security and may not be transferred to another
 20 person except for a transfer by inheritance upon the death
 21 of the licensee. A license transferred between quota areas
 22 under this section may be held only by natural persons for 5
 23 years following the transfer. For the purpose of this
 24 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 ~~if--after-5-years-from-the-date-of-transfer--of--the~~
 5 ~~license--under--subsection--(6)(a)--the--license--may--not--be~~
 6 ~~considered--to--be--issued--under--the--quotas--of--16-4-201--A~~
 7 ~~license--that--is--no--longer--considered--to--be--part--of--the--quota~~
 8 ~~system--may--not--be--included--in--the--computation--to--determine~~
 9 ~~whether--a--quota--area--is--30%--over--quota--for--purposes--of~~
 10 ~~subsection--16(1)(f)(i)(ii)~~

11 ~~(f)(i)(c) Once a license is transferred to a new quota~~
 12 ~~area under subsection (6)(a), it may not be transferred to~~
 13 ~~another quota area or back to the original quota area.~~

14 (7) (a) Any all-beverage licensee is, upon the
 15 approval and in the discretion of the liquor division,
 16 entitled to a catering endorsement to his all-beverage
 17 license to allow the catering and sale of alcoholic
 18 beverages to persons attending a special event upon premises
 19 not otherwise licensed for the sale of alcoholic beverages.
 20 such beverages to be consumed on the premises where the
 21 event is held.

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

25 (c) A written application for each event for which the

1 licensee intends to provide catering services, the written
 2 approval of the catering application by the sponsor of the
 3 special event, and a fee of \$40 must be filed with the
 4 department at least 10 days prior to the event and shall
 5 describe the location of the premises where the event is to
 6 be held, the nature of the event, and the period during
 7 which the event is to be held. An all-beverage licensee who
 8 holds an endorsement granted under this subsection (7) may
 9 not receive approval to cater an event of which he is the
 10 sponsor. The catered event must be within 100 miles of the
 11 licensee's regular place of business. If obtained, the
 12 licensee shall display in a prominent place on those
 13 premises, the written approval from the department for each
 14 event which is catered pursuant to this subsection.

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

19 (e) The sale of alcoholic beverages pursuant to a
 20 catering endorsement is subject to the provisions of
 21 16-6-103.

22 (f) The sale of alcoholic beverages pursuant to a
 23 catering endorsement is subject to the provisions of
 24 16-3-306, unless entities named in 16-3-306 give their
 25 written approval.

1 (8) Except as above provided, no license shall be
 2 transferred or sold nor shall it be used for any place of
 3 business not described in the license; provided, however,
 4 that such license may be subject to mortgage and other valid
 5 liens, in which event the name of the mortgagee, upon
 6 application to and approval of the department, must be
 7 endorsed on the license.

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

10 Section 2--Section 16-4-501r-MEA, is amended to read:
 11 "16-4-501r--license--and--permit--fees---(1) Each beer
 12 licensee--licensed--to--sell--either--beer--or--table--wine--only--or
 13 both--beer--and--table--wine--under--the--provisions--of--this--code
 14 shall--pay--an--annual--license--fee--as--follows:
 15 tot--each--brewery--wherever--located--whose--product--is
 16 sold--or--offered--for--sale--within--the--state--\$500;--for--each
 17 storage--depot--\$400;
 18 tot--each--beer--wholesaler--\$400+--each--table--wine
 19 distributor--\$400;
 20 tot--each--beer--retailer--\$200+--with--a--wine--license
 21 amendment--on--additional--\$200;
 22 tot--for--a--license--to--sell--beer--at--retail--for
 23 off--premises--consumption--only--the--same--as--a--retail--beer
 24 licensee--for--a--license--to--sell--table--wine--at--retail--for
 25 off--premises--consumption--only--either--alone--or--in

1 conjunction--with--beer--\$200;
 2 tot--any--unit--of--a--nationally--chartered--veterans--
 3 organization--\$50;
 4 tot--the--permit--fee--under--16-4-301f2j--is--\$10--for--those
 5 the--rate--of--\$15--a--day--for--each--day--beer--is--sold--at--those
 6 events--lasting--2--or--more--days--but--in--no--case--be--less--than
 7 \$30;
 8 tot--the--permit--fee--under--16-4-301f2j--is--\$10--for--the
 9 sale--of--beer--only--or--\$20--for--the--sale--of--all--alcoholic
 10 beverages;
 11 (4) Passenger--carrier--licenses--shall--be--issued--upon
 12 payment--by--the--applicant--of--an--annual--license--fee--in--the--sum
 13 of--\$300;
 14 tot--the--annual--license--fee--for--a--license--to--sell--wine
 15 on--the--premises--when--issued--as--an--amendment--to--a--beer--only
 16 licensee--is--\$200;
 17 tot--the--annual--fee--for--resort--retail--liquor--licenses
 18 within--a--given--resort--area--shall--be--\$2,000--for--each--license;
 19 tot--Each--licensee--licensed--under--the--quotas--of
 20 16-4-201--shall--pay--an--annual--license--fee--as--follows:
 21 tot--except--as--hereinafter--provided--for--each--license
 22 outside--of--incorporated--cities--and--incorporated--towns--or--in
 23 incorporated--cities--and--incorporated--towns--with--a--population
 24 of--less--than--2,000--\$400;
 25 tot--except--as--hereinafter--provided--for--each--license

1 in incorporated-cities-with-a-population-of-more-than--2,000
 2 and-less-than-5,000-or-within-a-distance-of-5-miles-thereof
 3 measured-in-a-straight-line-from-the-nearest-entrance-of-the
 4 premises--to--be--licensed--to--the-nearest-boundary-of-such
 5 city--\$500+

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

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

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

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

8 (f)--an--applicant--for--the--issuance--of--an--original
 9 license--to--be--located--in--areas--described--in--subsection--(d)
10 of--this--subsection--shall--pay--a--one--time--original--license--fee
11 of--\$20,000--for--any--such--license--issued--the--one--time--license
12 fee--of--\$20,000--shall--not--apply--to--any--transfer--or--renewal--of
13 a--license--duly--issued--prior--to--July--17--1974--All--licenses--
14 however--are--subject--to--the--annual--renewal--fee--of--\$800.

15 (g)--the--holder--of--a--license--issued--under--the--quotas--of
 16 \$6,420--but--which--pursuant--to--16--4--204(6)(c)--is--no--longer
 17 considered--to--be--a--quota--license--shall--pay--an--annual--fee
 18 equal--to--the--annual--fee--that--would--be--due--if--the--license
 19 were--still--a--quota--license.

20 (h)(1)--The--fee--for--one--off--beverage--license--to--a
 21 public--airport--shall--be--\$800--This--license--is
 22 nontransferable.

23 (h)(2)--The--license--fees--herein--provided--for--one
 24 exclusive--of--and--in--addition--to--other--license--fees
 25 chargeable--in--Montana--for--the--sale--of--alcoholic--beverages--"

1 Section 2. Section 16-4-202, MCA, is amended to read:

2 "16-4-202. Resort licenses. (1) It is the intent and

3 purpose of this section to encourage the growth of quality

4 recreational resort facilities in undeveloped areas of the

5 state and to provide for the orderly growth of existing

6 recreational sites by the establishment of resort areas

7 within which retail liquor licenses may be issued by the

8 department under the terms and as more particularly

9 prescribed below. In addition to the licenses as otherwise

10 set forth in [this act], the department may issue resort

11 retail liquor licenses in a resort area.

12 (2) For the purposes of this section, a resort area is

13 defined as a recreational facility meeting the

14 qualifications determined by the department as hereinafter

15 provided.

16 (3) The department shall determine that the area for

17 which licenses are to be issued is a resort area, such

18 determination to be made under and pursuant to rules to be

19 first promulgated on or before December 31, 1975.

20 (4) In addition to the other requirements of this

21 code, a resort area, for the purposes of qualification for

22 the issuance of resort retail liquor license, must have a

23 current actual valuation of resort or recreational

24 facilities, including land and improvements thereon, of not

25 less than \$500,000, at least half of which valuation must be

1 for a structure or structures within the resort area, and

2 must be under the sole ownership or control of one person or

3 entity at the time of the filing of the resort area plat

4 referred to in subsection (5) of this section. The word

5 control shall mean lands held under lease, option, or

6 permit.

7 (5) The resort area must be determined by the resort

8 developer or landowner by a plat setting forth the resort

9 boundaries, designating the ownership of the lands within

10 the resort area, which plat must be verified by the resort

11 developer or landowner and filed with the department prior

12 to the filing of any applications by individuals for

13 licenses within the resort area. Such plat must show the

14 location and general design of the buildings and other

15 improvements to be built in said area in which resort retail

16 liquor licenses are to or may be located. A master plan for

17 the development of the area may be filed by the resort

18 developer in satisfaction of this section.

19 (6) Upon such filing the department shall forthwith

20 schedule a public hearing to be held in Helena, Montana, to

21 determine whether the facility proposed by the resort

22 developer or landowner is a resort area within the meaning

23 of the rules of the department. At least 30 days prior to

24 the date of the hearing, the department shall publish notice

25 thereof, with a description of the location of the proposed

1 resort area, in a newspaper published in the county or
 2 counties in which the resort is located, once a week for 4
 3 consecutive weeks. Each resort developer or landowner
 4 shall, at the time of filing his application, pay to the
 5 department an amount sufficient to cover the costs of said
 6 publication.

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

10 (8) Within 30 days of the hearing, the department
 11 shall accept or reject the plat. If rejected the department
 12 must state its reasons and set forth the conditions, if any,
 13 under which the plat will be accepted, and the decision of
 14 the department may be reviewed pursuant to the review
 15 procedure set forth in 16-4-406.

16 (9) Once filed with the department, the boundaries of
 17 a resort may not be changed without full hearing as above
 18 provided and the prior approval of the department, which
 19 approval shall be according to public convenience and
 20 necessity.

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

25 (b) Each applicant must submit plans showing the

1 location, appearance, and floor plan of the premises for
 2 which application for a license is made.
 3 (c) If an applicant otherwise qualifies for a resort
 4 license but the premises to be licensed are still in
 5 construction or are otherwise incomplete at the time of such
 6 application, the department shall issue a letter stating
 7 that the license will be issued at such time as the
 8 qualifications for a licensed premises have been met,
 9 setting forth such time limitations and requirements as the
 10 department may establish.

11 ~~(11) A--resort--license--may--not--be--mortgaged--or--pledged~~
 12 ~~as--security--and--may--not--be--transferred--to--another--person~~
 13 ~~except--for--a--transfer--by--inheritance--upon--the--death--of--the~~
 14 ~~teenagers~~ In addition to--the--restrictions--on--sale--or
 15 transfer--of--a--license--as--provided--in--16-4-204 TO THE
 16 RESTRICTIONS ON SALE OR TRANSFER OF A LICENSE AS PROVIDED IN
 17 16-4-204, no resort retail liquor license may be sold or
 18 transferred for operation at a location outside of the
 19 boundaries of the resort area.

20 (12) A resort retail liquor license shall not be
 21 subject to the quota limitations set forth in 16-4-201, and
 22 if the requirements of this section have been met, a resort
 23 retail liquor license shall be issued by the department on
 24 the basis that the department has determined that such
 25 license is justified by public convenience and necessity, in

SB 0461/03

1 accordance with the procedure required in 16-4-207."

-End-

April 8, 1981

PROPOSED GOVERNOR'S AMENDMENTS TO SB 461;
REFERENCE COPY, AS FOLLOWS:

1. Page 14, Lines 11 through 14.
Following: (11)
Delete: A resort license may not be mortgaged or
pledged as security and may not be trans-
ferred to another person except for a trans-
fer by inheritance upon the death of the
licensee.
2. Page 14, Line 14
Following: "addition"
Insert: "to the restrictions on sale or transfer of
a license as provided in 16-4-204"



State of Montana
Office of the Governor
Helena 59620

TED SCHWINDEN
GOVERNOR

April 8, 1981

The Honorable Jean A. Turnage
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return Senate Bill No. 461, "AN ACT TO REMOVE THE RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED FROM ONE QUOTA AREA TO ANOTHER 5 YEARS AFTER THE TRANSFER AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO QUOTA AREAS THAT ARE LESS THAN 133 PERCENT OVER QUOTA, AN INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202, AND 16-4-204," without my signature and recommend the attached amendments for the following reasons.

The language of SB 461 on page 14, lines 11 through 14, creates a statutory bar against any mortgaging or pledging of resort all-alcoholic beverage licenses as security. Additionally, the language bars any transfer of the license except upon inheritance by death, similar to the current provisions affecting floater all-alcoholic beverage licenses.

The unamended statutory provisions allow the resort all-alcoholic beverage license to be mortgaged or pledged as security and allows the transfer of such licenses with the restriction that such licenses may not be transferred to locations outside the boundaries of the resort area. Currently, at least four resort all-alcoholic beverage licenses have been mortgaged or pledged as security with secured parties and their security interests recorded with the Department of Revenue, Liquor Division.

Senator Turnage and Representative Marks
April 8, 1981
Page Two

The amendments I am proposing maintain the existing statutory provisions for mortgaging and transferring resort all-alcoholic beverage licenses.

I urge your concurrence in these amendments.

Sincerely,


TED SCHWINDEN
Governor