

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; Noes, 0. Transmitted to House.

IN THE HOUSE

April 17, 1981	Second reading, Governor's amendments concurred in. On motion rules suspended and Governor's amendments placed on third reading this day. Third reading, Governor's amendments concurred in. Ayes, 79; Noes, 14.
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IN THE SENATE

April 20, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Sen. 461* BILL NO. *461*
 2 INTRODUCED BY *Senate Taxation Committee*
 3 BY REQUEST OF THE SENATE TAXATION COMMITTEE
 4 *Goodwin Dan McCallister Norman*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
 6 RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED
 7 FROM ONE QUOTA AREA TO ANOTHER FIVE YEARS AFTER THE TRANSFER
 8 AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO
 9 QUOTA AREAS THAT ARE LESS THAN 130 PERCENT OVER QUOTA, AN
 10 INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202,
 11 16-4-204, AND 16-4-501, MCA."
 12
 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
 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 (8) Except as above provided, no license shall be

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

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

Section 2. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:

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

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

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

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

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

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

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

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

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

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

(7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

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

(b) except as hereinafter provided, for each license 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 ~~(8)(9)~~ The fee for one all-beverage license to a
20 public airport shall be \$800. This license is
21 nontransferable.

22 ~~(9)(10)~~ 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:

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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

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

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

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

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

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

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

which application for a license is made.

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

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

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

-End-

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Approved by Committee
on Taxation

SENATE BILL NO. 461

INTRODUCED BY SENATE TAXATION COMMITTEE

GOODOVER, TONE, MCCALLUM, NORMAN

BY REQUEST OF THE SENATE TAXATION COMMITTEE

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

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

Section 1. Section 16-4-204, MCA, is amended to read:

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

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

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

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

(4) In the event of a major loss or damage to licensed
premises by unforeseen natural causes or in case of
expiration of lease of the licensed premises or in the event
of eviction or increase of rent by the landlord (in case of
rented licensed premises) or in case of proposed removal of
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 ~~(c) 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 (6)(c)(iii).~~

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 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.

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

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

~~Section 2. Section 16-4-501, MCA, is amended to read:~~

~~"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:~~

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

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

~~(c) each beer retailer, \$200; with a wine license, \$200; as additional, \$200;~~

~~(d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in~~

~~conjunction with beer, \$200;~~

~~(e) any unit of a nationally chartered veterans' organization, \$50;~~

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

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

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

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

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

~~(7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:~~

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

~~(b) except as hereinafter provided, for each license~~

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

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

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

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

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

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

~~(g) The holder of a license issued under the quotas of 16-4-201 but which, pursuant to 16-4-204(f)(1)(i), is no longer considered to be a quota license shall pay an annual fee equal to the annual fee that would be due if the license were still a quota license.~~

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

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

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

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

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

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

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

for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in subsection (5) of this section. The word control shall mean lands held under lease, option, or permit.

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

(6) Upon such filing the department shall forthwith schedule a public hearing to be held in Helena, Montana, to determine whether the facility proposed by the resort developer or landowner is a resort area within the meaning of the rules of the department. At least 30 days prior to the date of the hearing, the department shall publish notice 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."

1 SENATE BILL NO. 461

2 INTRODUCED BY SENATE TAXATION COMMITTEE

3 GOODOVER, TOME, 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 ~~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."~~

13
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

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

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

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

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

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

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

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

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

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

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

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

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

~~Section 2. Section 16-4-501, MCA, is amended to read:~~

~~"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:~~

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

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

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

~~(d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in~~

~~conjunction with beer, \$200;~~

~~(e) any unit of a nationally chartered veterans' organization, \$50;~~

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

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

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

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

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

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

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

~~(b) 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 applicants. 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 applicants.

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 \$800.

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

20 (8)(2) The fee for one all-beverage license to a
21 public airport shall be \$800. This license is
22 nontransferable.

23 (9)(10) 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.

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

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

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

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

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

for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in subsection (5) of this section. The word control shall mean lands held under lease, option, or permit.

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

(6) Upon such filing the department shall forthwith schedule a public hearing to be held in Helena, Montana, to determine whether the facility proposed by the resort developer or landowner is a resort area within the meaning of the rules of the department. At least 30 days prior to the date of the hearing, the department shall publish notice 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

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE RESTRICTIONS ON ALL-BEVERAGES LIQUOR LICENSES TRANSFERRED FROM ONE QUOTA AREA TO ANOTHER FIVE YEARS AFTER THE TRANSFER AND TO ALLOW THE TRANSFERS OF ALL-BEVERAGES LICENSES TO QUOTA AREAS THAT ARE LESS THAN ~~190~~ 133 PERCENT OVER QUOTA, AN INCREASE FROM 125 PERCENT; AMENDING SECTIONS 16-4-202, AND 16-4-204, ~~AND-16-4-501~~, MCA."

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

Section 1. Section 16-4-204, MCA, is amended to read:

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

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

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

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

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of 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

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

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

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

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

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

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

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

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

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

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

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

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

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

"16-4-501--License--and--permit--fees--(1)--Each beer licensee licensed to sell either beer or table wine only or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:

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

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

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

(d)--for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in

conjunction with beer, \$200;

(e)--any unit of a nationally chartered veterans' organization, \$50;

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

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

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

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

(6)--The annual fee for resort retail liquor licenses within a given resort area shall be \$2000 for each licensee;

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

(a)--except as hereinafter provided, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 25000, \$400;

(b)--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 applicants. 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 \$800.

15 (g) The holder of a license issued under the quotas of
16 16-4-201 but which pursuant to 16-4-204(f)(7)(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 (8)(9) The fee for one-att-beverage license to a
21 public airport shall be \$800. This license is
22 nontransferable.

23 (9)(10) 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.

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

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

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

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

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

for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in subsection (5) of this section. The word control shall mean lands held under lease, option, or permit.

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

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

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

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

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

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

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

(b) Each applicant must submit plans showing the

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

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

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

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

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 5 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."

13
14 IF 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

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

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

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

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

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

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

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

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

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

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

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

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

~~Section 24--Section 16-4-501v-MEA--is amended to--read:~~

~~"16-4-501v--License--and--permit--fees--(1)--Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:~~

~~(a)--each brewery, wherever located, whose product is sold or offered for sale within the state, \$500; for each storage depot, \$400;~~

~~(b)--each beer wholesaler, \$400; each table wine distributor, \$400;~~

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

~~(d)--for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in~~

~~conjunction with beer, \$200;~~

~~(e)--any unit of a nationally chartered veterans' organization, \$50;~~

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

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

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

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

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

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

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

~~(b)--except as hereinafter provided, for each license~~

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

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

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

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

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

(f) an applicant for the issuance of an original license to be located in areas described in subsection (d) of this subsection shall pay a one-time original license fee of \$20,000 for any such license issued. The one-time license fee of \$20,000 shall not apply to any transfer or renewal of a license duly issued prior to July 1, 1974. All licenses, however, are subject to the annual renewal fee of \$800.

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

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

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

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

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

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

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

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

for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in subsection (5) of this section. The word control shall mean lands held under lease, option, or permit.

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

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

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

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

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

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

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

(b) Each applicant must submit plans showing the

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

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

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

(12) A resort retail liquor license shall not be subject to the quota limitations set forth in 16-4-201, and if the requirements of this section have been met, a resort retail liquor license shall be issued by the department on the basis that the department has determined that such 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,

A handwritten signature in cursive script, appearing to read "Ted Schwinden".

TED SCHWINDEN
Governor