

HOUSE BILL NO. 132

INTRODUCED BY WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 8, 1983	Introduced and referred to Committee on Business and Industry.
January 21, 1983	Committee recommend bill do pass as amended. Report adopted.
January 22, 1983	Bill printed and placed on members' desks.
January 24, 1983	Motion pass consideration.
January 25, 1983	Second reading, do pass.
January 26, 1983	Considered correctly engrossed.
January 27, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 28, 1983	Introduced and referred to Committee on Business and Industry.
February 3, 1983	Committee recommend bill be concurred in. Report adopted.
February 7, 1983	Second reading, concurred in.
February 9, 1983	Third reading, concurred in. Ayes, 48; Noes, 0.

IN THE HOUSE

February 9, 1983

Returned to House.

February 10, 1983

Sent to enrolling.

Reported correctly enrolled.

1 ~~House~~ BILL NO. 132
2 INTRODUCED BY Williams
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A LATE FEE
6 TO BE CHARGED TO MONTANA ALCOHOLIC BEVERAGE LICENSEES WHO
7 FAIL TO PAY ANNUAL RENEWAL FEES IN A TIMELY MANNER; AMENDING
8 SECTION 16-4-501, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 16-4-501, MCA, is amended to read:
12 "16-4-501. License and permit fees. (1) Each beer
13 licensee licensed to sell either beer or table wine only, or
14 both beer and table wine, under the provisions of this code,
15 shall pay an annual license fee as follows:
16 (a) each brewer, wherever located, whose product is
17 sold or offered for sale within the state, \$500; for each
18 storage depot, \$400;
19 (b) each beer wholesaler, \$400; each table wine
20 distributor, \$400;
21 (c) each beer retailer, \$200; with a wine license
22 amendment, an additional \$200;
23 (d) for a license to sell beer at retail for
24 off-premises consumption only, the same as a retail beer
25 license; for a license to sell table wine at retail for

1 off-premises consumption only, either alone or in
2 conjunction with beer, \$200;
3 (e) any unit of a nationally chartered veterans'
4 organization, \$50.
5 (2) The permit fee under 16-4-301(1) is computed at
6 the rate of \$15 a day for each day beer and table wine are
7 sold at those events lasting 2 or more days but in no case
8 be less than \$30.
9 (3) The permit fee under 16-4-301(2) is \$10 for the
10 sale of beer and table wine only or \$20 for the sale of all
11 alcoholic beverages.
12 (4) Passenger carrier licenses shall be issued upon
13 payment by the applicant of an annual license fee in the sum
14 of \$300.
15 (5) The annual license fee for a license to sell wine
16 on the premises, when issued as an amendment to a beer-only
17 license, is \$200.
18 (6) The annual fee for resort retail liquor licenses
19 within a given resort area shall be \$2,000 for each license.
20 (7) Each licensee licensed under the quotas of
21 16-4-201 shall pay an annual license fee as follows:
22 (a) except as hereinafter provided, for each license
23 outside of incorporated cities and incorporated towns or in
24 incorporated cities and incorporated towns with a population
25 of less than 2,000, \$250 for a unit of a nationally

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1 chartered veterans' organization and \$400 for all other
2 licensees;

3 (b) except as hereinafter provided, for each license
4 in incorporated cities with a population of more than 2,000
5 and less than 5,000 or within a distance of 5 miles thereof,
6 measured over the shortest public road or highway from the
7 nearest entrance of the premises to be licensed to the
8 nearest boundary of such city, \$350 for a unit of a
9 nationally chartered veterans' organization and \$500 for all
10 other licensees;

11 (c) except as hereinafter provided, for each license
12 in incorporated cities with a population of more than 5,000
13 and less than 10,000 or within a distance of 5 miles
14 thereof, measured over the shortest public road or highway
15 from the nearest entrance of the premises to be licensed to
16 the nearest boundary of such city, \$500 for a unit of a
17 nationally chartered veterans' organization and \$650 for all
18 other licensees;

19 (d) for each license in incorporated cities with a
20 population of 10,000 or more or within a distance of 5 miles
21 thereof, measured over the shortest public road or highway
22 from the nearest entrance of the premises to be licensed to
23 the nearest boundary of such city, \$650 for a unit of a
24 nationally chartered veterans' organization and \$800 for all
25 other licensees;

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

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

25 (8) The fee for one all-beverage license to a public

1 airport shall be \$800. This license is nontransferable.

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

5 (10) In addition to other license fees, the department
6 of revenue may require a licensee to pay a late fee of not
7 to exceed \$500 if the annual renewal fee is not paid on or
8 before July 1 of the renewal year. Such late fee must be
9 based on the added cost to the department of collecting the
10 annual renewal fee."

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 132

INTRODUCED BY WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A LATE FEE
TO BE CHARGED TO MONTANA ALCOHOLIC BEVERAGE LICENSEES WHO
FAIL TO PAY ANNUAL RENEWAL FEES IN A TIMELY MANNER;
~~AUTHORIZING SUSPENSION OR REVOCATION OF ALCOHOLIC BEVERAGE~~
~~LICENSES IF ANNUAL RENEWAL FEE IS NOT TIMELY PAID;~~
~~ELIMINATING PROVISIONS THAT ALCOHOLIC BEVERAGE LICENSES~~
~~EXPIRE JUNE 30 OF EACH YEAR;~~ AMENDING SECTIONS
~~16-4-204, 16-4-407, 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
-- catering endorsement -- 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) Except as provided in subsection (6)(b), a
 3 license may be transferred to a new ownership and to a
 4 location outside the quota area for which it was originally
 5 issued only when the following criteria 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% in the most recent census prescribed in 16-4-502;

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 33% in the most recent
 12 census prescribed in 16-4-502; 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 license within an incorporated quota area may be
 17 transferred to a new ownership and to a new unincorporated
 18 location within the same county on application to and with
 19 consent of the department when the quota of the
 20 all-beverages licenses in the original quota area exceeds
 21 the quota for that area by at least 25% in the most recent
 22 census and will not fall below that level because of the
 23 transfer.

24 (c) For 5 years after the transfer of a license
 25 between quota areas under subsection (6)(a), the license may

1 not be mortgaged or pledged as security and may not be
 2 transferred to another person except for a transfer by
 3 inheritance upon the death of the licensee. A license
 4 transferred between quota areas under this section may be
 5 held only by natural persons for 5 years following the
 6 transfer. For the purpose of this section, natural persons
 7 shall not include limited partnerships or other business
 8 entities of any kind in which each natural person is not a
 9 full participant in the ownership and operation of the
 10 business authorized by the license.

11 (d) Once a license is transferred to a new quota area
 12 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 16-4-407, MCA, IS AMENDED TO READ:

"16-4-407. Expiration of licenses. Each July 1, the department shall issue licenses to brewers, wholesalers, or retailers or for the retail sale of alcoholic beverages on an annual basis and at such fees as are prescribed by law, and such licenses ~~shall expire at~~ are subject to suspension or revocation under 16-4-406 after midnight of June 30 of the succeeding year ~~if the annual renewal fees required by 16-4-501 are not paid.~~ The department shall notify each applicant for an original license or renewal that he should inform himself of applicable provisions of federal law which may require a permit from a federal agency."

Section 3. 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 and table wine are 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 and table wine 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, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(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 over the shortest public road or highway from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(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 over the shortest public road or highway

from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured over the shortest public road or highway from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured over the shortest public road or highway 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

1 fee chargeable by the smaller incorporated town or
2 incorporated city applies and shall be paid by the
3 applicant.

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

11 (8) The fee for one all-beverage license to a public
12 airport shall be \$600. This license is nontransferable.

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

16 ~~(10) In addition to other license fees, the department~~
17 ~~of revenue may require a licensee to pay a late fee of not~~
18 ~~to exceed \$500 if the annual renewal fee is not paid on or~~
19 ~~before July 1 of the renewal year. Such late fee must be~~
20 ~~based on the added cost to the department of collecting the~~
21 ~~annual renewal fee 33 1/3% OF ANY LICENSE FEE DELINQUENT ON~~
22 ~~JULY 1 OF THE RENEWAL YEAR, 66 2/3% OF ANY LICENSE FEE~~
23 ~~DELINQUENT ON AUGUST 1 OF THE RENEWAL YEAR, AND 100% OF ANY~~
24 ~~LICENSE FEE DELINQUENT ON SEPTEMBER 1 OF THE RENEWAL YEAR."~~

-End-

HOUSE BILL NO. 132

INTRODUCED BY WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A LATE FEE TO BE CHARGED TO MONTANA ALCOHOLIC BEVERAGE LICENSEES WHO FAIL TO PAY ANNUAL RENEWAL FEES IN A TIMELY MANNER; ~~AUTHORIZING SUSPENSION OR REVOCATION OF ALCOHOLIC BEVERAGE LICENSES IF ANNUAL RENEWAL FEE IS NOT TIMELY PAID; ELIMINATING PROVISIONS THAT ALCOHOLIC BEVERAGE LICENSES EXPIRE JUNE 30 OF EACH YEAR; AMENDING SECTION SECTIONS 16-4-204, 16-4-407, 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 -- catering endorsement -- 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) Except as provided in subsection (6)(b), a
 3 license may be transferred to a new ownership and to a
 4 location outside the quota area for which it was originally
 5 issued only when the following criteria 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% in the most recent census prescribed in 16-4-502;

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 33% in the most recent
 12 census prescribed in 16-4-502; 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 license within an incorporated quota area may be
 17 transferred to a new ownership and to a new unincorporated
 18 location within the same county on application to and with
 19 consent of the department when the quota of the
 20 all-beverages licenses in the original quota area exceeds
 21 the quota for that area by at least 25% in the most recent
 22 census and will not fall below that level because of the
 23 transfer.

24 (c) For 5 years after the transfer of a license
 25 between quota areas under subsection (6)(a), the license may

1 not be mortgaged or pledged as security and may not be
 2 transferred to another person except for a transfer by
 3 inheritance upon the death of the licensee. A license
 4 transferred between quota areas under this section may be
 5 held only by natural persons for 5 years following the
 6 transfer. For the purpose of this section, natural persons
 7 shall not include limited partnerships or other business
 8 entities of any kind in which each natural person is not a
 9 full participant in the ownership and operation of the
 10 business authorized by the license.

11 (d) Once a license is transferred to a new quota area
 12 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 16-4-407, MCA, IS AMENDED TO READ:

"16-4-407. Expiration of licenses. Each July 1, the department shall issue licenses to brewers, wholesalers, or retailers or for the retail sale of alcoholic beverages on an annual basis and at such fees as are prescribed by law, and such licenses ~~shall expire at~~ are subject to suspension or revocation under 16-4-406 after midnight of June 30 of the succeeding year if the annual renewal fees required by 16-4-501 are not paid. The department shall notify each applicant for an original license or renewal that he should inform himself of applicable provisions of federal law which may require a permit from a federal agency."

Section 3. 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 and table wine are 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 and table wine 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, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(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 over the shortest public road or highway from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(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 over the shortest public road or highway

from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured over the shortest public road or highway from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured over the shortest public road or highway 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

1 fee chargeable by the smaller incorporated town or
 2 incorporated city applies and shall be paid by the
 3 applicant.

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

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

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

16 ~~(10) In addition to other license fees, the department~~
 17 ~~of revenue may require a licensee to pay a late fee of not~~
 18 ~~to exceed \$500 if the annual renewal fee is not paid on or~~
 19 ~~before July 1 of the renewal year. Such late fee must be~~
 20 ~~based on the added cost to the department of collecting the~~
 21 ~~annual renewal fee 33 1/3% OF ANY LICENSE FEE DELINQUENT ON~~
 22 ~~JULY 1 OF THE RENEWAL YEAR, 66 2/3% OF ANY LICENSE FEE~~
 23 ~~DELINQUENT ON AUGUST 1 OF THE RENEWAL YEAR, AND 100% OF ANY~~
 24 ~~LICENSE FEE DELINQUENT ON SEPTEMBER 1 OF THE RENEWAL YEAR."~~

-End-

HOUSE BILL NO. 132

INTRODUCED BY WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A LATE FEE TO BE CHARGED TO MONTANA ALCOHOLIC BEVERAGE LICENSEES WHO FAIL TO PAY ANNUAL RENEWAL FEES IN A TIMELY MANNER; AUTHORIZING SUSPENSION OR REVOCATION OF ALCOHOLIC BEVERAGE LICENSES IF ANNUAL RENEWAL FEE IS NOT TIMELY PAID; ELIMINATING PROVISIONS THAT ALCOHOLIC BEVERAGE LICENSES EXPIRE JUNE 30 OF EACH YEAR; AMENDING SECTIONS 16-4-224, 16-4-401, 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 -- catering endorsement -- 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) Except as provided in subsection (6)(b), a
 3 license may be transferred to a new ownership and to a
 4 location outside the quota area for which it was originally
 5 issued only when the following criteria 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% in the most recent census prescribed in 16-4-502;

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 33% in the most recent
 12 census prescribed in 16-4-502; 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 license within an incorporated quota area may be
 17 transferred to a new ownership and to a new unincorporated
 18 location within the same county on application to and with
 19 consent of the department when the quota of the
 20 all-beverages licenses in the original quota area exceeds
 21 the quota for that area by at least 25% in the most recent
 22 census and will not fall below that level because of the
 23 transfer.

24 (c) For 5 years after the transfer of a license
 25 between quota areas under subsection (6)(a), the license may

1 not be mortgaged or pledged as security and may not be
 2 transferred to another person except for a transfer by
 3 inheritance upon the death of the licensee. A license
 4 transferred between quota areas under this section may be
 5 held only by natural persons for 5 years following the
 6 transfer. For the purpose of this section, natural persons
 7 shall not include limited partnerships or other business
 8 entities of any kind in which each natural person is not a
 9 full participant in the ownership and operation of the
 10 business authorized by the license.

11 (d) Once a license is transferred to a new quota area
 12 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 16-4-407, MCA, IS AMENDED TO READ:

"16-4-407. Expiration of licenses. Each July 1, the department shall issue licenses to brewers, wholesalers, or retailers or for the retail sale of alcoholic beverages on an annual basis and at such fees as are prescribed by law, and such licenses ~~shall expire at~~ are subject to suspension or revocation under 16-4-406 after midnight of June 30 of the succeeding year if the annual renewal fees required by 16-4-501 are not paid. The department shall notify each applicant for an original license or renewal that he should inform himself of applicable provisions of federal law which may require a permit from a federal agency."

Section 3. 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 and table wine are 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 and table wine 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, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(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 over the shortest public road or highway from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(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 over the shortest public road or highway

from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured over the shortest public road or highway from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured over the shortest public road or highway 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

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 2 incorporated city applies and shall be paid by the
 3 applicant.

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 5 license to be located in areas described in subsection (d)
 6 of this subsection shall pay a one-time original license fee
 7 of \$20,000 for any such license issued. The one-time license
 8 fee of \$20,000 shall not apply to any transfer or renewal of
 9 a license duly issued prior to July 1, 1974. All licenses,
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-End-