

HOUSE BILL NO. 134

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 18, 1983 | Committee recommend bill do not pass. Report adopted.<br><br>On motion taken from Adverse Committee Report and rereferred to Committee on Business and Industry. |
| January 19, 1983 | Committee recommend bill do pass as amended. Report adopted.   |
| January 20, 1983 | Bill printed and placed on members' desks.   |
| January 21, 1983 | Second reading, do pass.   |
| January 22, 1983 | Considered correctly engrossed.  |
| January 24, 1983 | Third reading, passed.<br><br>On motion, previous action reconsidered.<br><br>On motion, bill placed on second reading.  |
| January 25, 1983 | Second reading, do pass as amended.  |
| January 26, 1983 | Correctly engrossed.   |
| January 27, 1983 | Third reading, passed.<br>Transmitted to Senate.   |

#### IN THE SENATE

|                   |  |
|-------------------|--|
| January 28, 1983  | Introduced and referred to Committee on Business and Industry.                             |
| February 4, 1983  | Committee recommend bill be not concurred in. Report adopted.                              |
| February 5, 1983  | On motion, request of Senate granted for return of H.B. No. 134 for further consideration. |
| February 8, 1983  | Second reading, pass consideration.  |
| February 9, 1983  | Second reading, concurred in as amended.   |
| February 11, 1983 | Third reading, concurred in. Ayes, 46; Noes, 4.  |

#### IN THE HOUSE

|                   |  |
|-------------------|--|
| February 11, 1983 | Returned to House with amendments.   |
| February 14, 1983 | Second reading, amendments concurred in.   |
| February 15, 1983 | Third reading, amendments concurred in. Sent to enrolling.<br><br>Reported correctly enrolled. |

1 ~~House~~ BILL NO. 134  
2 INTRODUCED BY Williams  
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE 10-DAY  
6 APPLICATION FILING REQUIREMENT FOR ALL-ALCOHOLIC BEVERAGES  
7 LICENSE CATERING ENDORSEMENTS AND BEER AND TABLE WINE  
8 SPECIAL PERMITS; REMOVING THE DEPARTMENT OF REVENUE'S  
9 INVESTIGATORY DUTIES FOR SUCH ENDORSEMENTS AND PERMITS;  
10 REDUCING THE CATERING APPLICATION FEE; AMENDING SECTIONS  
11 16-4-204, 16-4-301, AND 16-4-402, 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 — catering endorsement — transfer — expiration. (1) Every  
17 license issued under this part shall set forth the name of  
18 the person to whom issued, the location, by street and  
19 number or other appropriate specific description of location  
20 if no street address exists, of the premises where the  
21 business is to be carried on under said license, and such  
22 other information as the department shall deem necessary.  
23 If the licensee is a partnership or if more than one person  
24 has any interest in the business operated under the license,  
25 the names of all persons in the partnership or interested in

1 the business must appear on the license. Every license must  
2 be posted in a conspicuous place on the premises wherein the  
3 business authorized under the license is conducted, and such  
4 license 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

-2- INTRODUCED BILL

HB 134

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) Except as provided in subsection (6)(b), a  
2 license may be transferred to a new ownership and to a  
3 location outside the quota area for which it was originally  
4 issued only when the following criteria are met:

5 (i) the total number of all-beverages licenses in the  
6 original quota area exceeded the quota for that area by at  
7 least 25% in the most recent census prescribed in 16-4-502;

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

23 (c) For 5 years after the transfer of a license  
24 between quota areas under subsection (6)(a), the license may  
25 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. A license transferred between quota areas under this section may be held only by natural persons for 5 years following the transfer. For the purpose of this section, natural persons shall not include limited 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.

(d) 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~~ \$10 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 16-4-301, MCA, is amended to read:

"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine — application and issuance.

(1) (a) Any association or corporation conducting a picnic, convention, fair, civic or community enterprise, or sporting event shall in the discretion of the liquor division be entitled to a special permit to sell beer and table wine to the patrons of such event to be consumed within the enclosure wherein the event is held.

(b) The application of any such association or corporation shall be ~~presented 10 days in advance filed with the department prior to the event~~ and shall describe the location of such enclosure where such event is to be held, the nature of the event, and the period when it is contemplated that the event will be held. The application shall be accompanied by the amount of the permit fee.

(c) The permit issued to such association or

corporation is a special permit but shall not authorize the sale of beer and table wine except starting 1 day in advance of the regular period when events are being held upon such grounds and during the period described in the application and for 1 day thereafter.

(2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code shall, in the discretion of the department, without notice or hearing as provided in 16-4-207, be entitled to a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at such post or lodge to members and their guests only, to be consumed within the hall or building of such post or lodge.

(b) The application of such nationally chartered veterans' organization or lodge of a recognized national fraternal organization shall describe the location of the hall or building where the special permit will be used and the date it will be used.

(c) The special permit issued shall be for a 24-hour period only ending at 2 a.m., and the department may not issue more than 12 such permits to any such post or lodge during a calendar year."

Section 3. Section 16-4-402, MCA, is amended to read:

"16-4-402. Application -- investigation. (1) Prior to

1 the issuance of any license under this chapter, the  
2 applicant shall file with the department an application in  
3 writing, signed by the applicant and containing such  
4 information and statements relative to the applicant and the  
5 premises where the alcoholic beverage is to be sold as may  
6 be required by the department. The application shall be  
7 verified by the affidavit of the person making the same  
8 before a person authorized to administer oaths.

9 (2) Upon receipt of a completed application for a  
10 license under this code, accompanied by the necessary  
11 license fee, the department shall within 30 days make a  
12 thorough investigation of all matters pertaining thereto and  
13 shall determine whether such applicant is qualified to  
14 receive a license and his premises are suitable for the  
15 carrying on of the business and whether the requirements of  
16 this code and the rules promulgated by the department are  
17 met and complied with. This subsection does not apply to a  
18 catering endorsement provided in 16-4-204(7) or a special  
19 permit provided in 16-4-301.

20 (3) Upon proof that any applicant made a false  
21 statement in any part of the application, the application  
22 for the license may be denied, and if issued, the license  
23 may be revoked."

-End-

Business & Ind. Comm. recommend  
do not pass/ rereferred to Bus. & Ind.  
recommend do pass as amended.

## 1 HOUSE BILL NO. 134

2 INTRODUCED BY WILLIAMS

3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING THE 10-DAY~~  
6 ~~PROVIDING A 3-DAY~~ APPLICATION FILING REQUIREMENT FOR  
7 ALL-ALCOHOLIC BEVERAGES LICENSE CATERING ENDORSEMENTS AND  
8 BEER AND TABLE WINE SPECIAL PERMITS; REMOVING THE DEPARTMENT  
9 OF REVENUE'S INVESTIGATORY DUTIES FOR SUCH ENDORSEMENTS AND  
10 PERMITS; ~~REMOVING THE CATERING APPLICATION FEE~~; AMENDING  
11 SECTIONS 16-4-204, 16-4-301, AND 16-4-402, 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 -- catering endorsement -- transfer -- expiration. (1) Every  
17 license issued under this part shall set forth the name of  
18 the person to whom issued, the location, by street and  
19 number or other appropriate specific description of location  
20 if no street address exists, of the premises where the  
21 business is to be carried on under said license, and such  
22 other information as the department shall deem necessary.  
23 If the licensee is a partnership or if more than one person  
24 has any interest in the business operated under the license,  
25 the names of all persons in the partnership or interested in

1 the business must appear on the license. Every license must  
2 be posted in a conspicuous place on the premises wherein the  
3 business authorized under the license is conducted, and such  
4 license 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) Except as provided in subsection (6)(b), a  
 2 license may be transferred to a new ownership and to a  
 3 location outside the quota area for which it was originally  
 4 issued only when the following criteria are met:

5 (i) the total number of all-beverages licenses in the  
 6 original quota area exceeded the quota for that area by at  
 7 least 25% in the most recent census prescribed in 16-4-502;

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

23 (c) For 5 years after the transfer of a license  
 24 between quota areas under subsection (6)(a), the license may  
 25 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. A license transferred between quota areas under this section may be held only by natural persons for 5 years following the transfer. For the purpose of this section, natural persons shall not include limited 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.

(d) 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 ~~\$10~~ ~~\$40~~ must be filed with the department ~~at least 10 days~~ AT LEAST 3 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 16-4-301, MCA, is amended to read:

"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and issuance.

(1) (a) Any association or corporation conducting a picnic, convention, fair, civic or community enterprise, or sporting event shall in the discretion of the liquor division be entitled to a special permit to sell beer and table wine to the patrons of such event to be consumed within the enclosure wherein the event is held.

(b) The application of any such association or corporation shall be ~~presented-10-days-in-advance filed-with the-department-prior-to-the-event~~ PRESENTED 3 DAYS IN ADVANCE and shall describe the location of such enclosure where such event is to be held, the nature of the event, and the period when it is contemplated that the event will be held. The application shall be accompanied by the amount of the permit fee.

(c) The permit issued to such association or corporation is a special permit but shall not authorize the sale of beer and table wine except starting 1 day in advance of the regular period when events are being held upon such grounds and during the period described in the application and for 1 day thereafter.

(2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code shall, in the discretion of the department, without notice or hearing as provided in 16-4-207, be entitled to a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at such post or lodge to members and their guests only, to be consumed within the hall or building of such post or lodge.

(b) The application of such nationally chartered veterans' organization or lodge of a recognized national fraternal organization shall describe the location of the hall or building where the special permit will be used and the date it will be used.

(c) The special permit issued shall be for a 24-hour period only ending at 2 a.m., and the department may not issue more than 12 such permits to any such post or lodge during a calendar year."

Section 3. Section 16-4-402, MCA, is amended to read:

1       \*16-4-402. Application -- Investigation. (1) Prior to  
2 the issuance of any license under this chapter, the  
3 applicant shall file with the department an application in  
4 writing, signed by the applicant and containing such  
5 information and statements relative to the applicant and the  
6 premises where the alcoholic beverage is to be sold as may  
7 be required by the department. The application shall be  
8 verified by the affidavit of the person making the same  
9 before a person authorized to administer oaths.

10       (2) Upon receipt of a completed application for a  
11 license under this code, accompanied by the necessary  
12 license fee, the department shall within 30 days make a  
13 thorough investigation of all matters pertaining thereto and  
14 shall determine whether such applicant is qualified to  
15 receive a license and his premises are suitable for the  
16 carrying on of the business and whether the requirements of  
17 this code and the rules promulgated by the department are  
18 met and complied with. This subsection does not apply to a  
19 catering endorsement provided in 16-4-204(1) or a special  
20 permit provided in 16-4-301.

21       (3) Upon proof that any applicant made a false  
22 statement in any part of the application, the application  
23 for the license may be denied, and if issued, the license  
24 may be revoked."

-End-

## HOUSE BILL NO. 134

INTRODUCED BY WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING THE 10-DAY~~  
~~PROVIDING A 3-DAY~~ APPLICATION FILING REQUIREMENT FOR  
ALL-ALCOHOLIC BEVERAGES LICENSE CATERING ENDORSEMENTS AND  
BEER AND TABLE WINE SPECIAL PERMITS; REMOVING THE DEPARTMENT  
OF REVENUE'S INVESTIGATORY DUTIES FOR SUCH ENDORSEMENTS AND  
PERMITS; ~~REDUCING THE CATERING APPLICATION FEE; REDUCING THE~~  
~~CATERING APPLICATION FEE~~; AMENDING SECTIONS 16-4-204,  
16-4-301, AND 16-4-402, 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

THIRD READING

-2-

HB 134

1-25-83 Amended SECOND PRINTING

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

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. A license transferred between quota areas under this section may be held only by natural persons for 5 years following the transfer. For the purpose of this section, natural persons shall not include limited 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.

(d) 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 ~~\$10 \$50 \$35~~ must be filed with the department ~~at least 10 days~~ AT LEAST 3 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

1 written approval.

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

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

11 Section 2. Section 16-4-301, MCA, is amended to read:

12 "16-4-301. Special permits to sell all alcoholic  
13 beverages, beer, and table wine -- application and issuance.

14 (1) (a) Any association or corporation conducting a picnic,  
15 convention, fair, civic or community enterprise, or sporting  
16 event shall in the discretion of the liquor division be  
17 entitled to a special permit to sell beer and table wine to  
18 the patrons of such event to be consumed within the  
19 enclosure wherein the event is held.

20 (b) The application of any such association or  
21 corporation shall be ~~presented 10 days in advance filed with~~  
22 ~~the department prior to the event~~ PRESENTED 3 DAYS IN  
23 ADVANCE and shall describe the location of such enclosure  
24 where such event is to be held, the nature of the event, and  
25 the period when it is contemplated that the event will be

1 held. The application shall be accompanied by the amount of  
2 the permit fee.

3 (c) The permit issued to such association or  
4 corporation is a special permit but shall not authorize the  
5 sale of beer and table wine except starting 1 day in advance  
6 of the regular period when events are being held upon such  
7 grounds and during the period described in the application  
8 and for 1 day thereafter.

9 (2) (a) A post of a nationally chartered veterans'  
10 organization or a lodge of a recognized national fraternal  
11 organization not otherwise licensed under this code shall,  
12 in the discretion of the department, without notice or  
13 hearing as provided in 16-4-207, be entitled to a special  
14 permit to sell beer and table wine or a special permit to  
15 sell all alcoholic beverages at such post or lodge to  
16 members and their guests only, to be consumed within the  
17 hall or building of such post or lodge.

18 (b) The application of such nationally chartered  
19 veterans' organization or lodge of a recognized national  
20 fraternal organization shall describe the location of the  
21 hall or building where the special permit will be used and  
22 the date it will be used.

23 (c) The special permit issued shall be for a 24-hour  
24 period only ending at 2 a.m., and the department may not  
25 issue more than 12 such permits to any such post or lodge

1 during a calendar year."

2 Section 3. Section 16-4-402, MCA, is amended to read:

3 "16-4-402. Application -- investigation. (1) Prior to  
4 the issuance of any license under this chapter, the  
5 applicant shall file with the department an application in  
6 writing, signed by the applicant and containing such  
7 information and statements relative to the applicant and the  
8 premises where the alcoholic beverage is to be sold as may  
9 be required by the department. The application shall be  
10 verified by the affidavit of the person making the same  
11 before a person authorized to administer oaths.

12 (2) Upon receipt of a completed application for a  
13 license under this code, accompanied by the necessary  
14 license fee, the department shall within 30 days make a  
15 thorough investigation of all matters pertaining thereto and  
16 shall determine whether such applicant is qualified to  
17 receive a license and his premises are suitable for the  
18 carrying on of the business and whether the requirements of  
19 this code and the rules promulgated by the department are  
20 met and complied with. This subsection does not apply to a  
21 catering endorsement provided in 16-4-204(7) or a special  
22 permit provided in 16-4-301.

23 (3) Upon proof that any applicant made a false  
24 statement in any part of the application, the application  
25 for the license may be denied, and if issued, the license

1 may be revoked."

-End-

February 9, 1983

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill No. 134, third reading copy, as follows:

1. Page 6, line 19.

Following: "sciences"

Insert: "and the local law enforcement agency that has jurisdiction over the premises where the event is to be held"

2. Page 8, line 2.

Following: "fee"

Insert: "and a written statement of approval of the premises where the event is to be held issued by the department of health and environmental sciences and the local law enforcement agency that has jurisdiction over the premises where the event is to be held"

## HOUSE BILL NO. 134

INTRODUCED BY WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING THE 10-DAY~~  
~~PROVIDING A 3-DAY~~ APPLICATION FILING REQUIREMENT FOR  
ALL-ALCOHOLIC BEVERAGES LICENSE CATERING ENDORSEMENTS AND  
BEER AND TABLE WINE SPECIAL PERMITS; REMOVING THE DEPARTMENT  
OF REVENUE'S INVESTIGATORY DUTIES FOR SUCH ENDORSEMENTS AND  
PERMITS; ~~REDUCING THE CATERING APPLICATION FEE; REDUCING THE~~  
~~CATERING APPLICATION FEE~~; AMENDING SECTIONS 16-4-204,  
16-4-301, AND 16-4-402, 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~~ ~~\$10~~ ~~\$50~~ ~~\$35~~ must be filed  
 4 with the department ~~at least 10 days~~ AT LEAST 3 DAYS prior  
 5 to the event and shall describe the location of the premises  
 6 where the event is to be held, the nature of the event, and  
 7 the period during which the event is to be held. An  
 8 all-beverage licensee who holds an endorsement granted under  
 9 this subsection (7) may not receive approval to cater an  
 10 event of which he is the sponsor. The catered event must be  
 11 within 100 miles of the licensee's regular place of  
 12 business. If obtained, the licensee shall display in a  
 13 prominent place on those premises, the written approval from  
 14 the department for each event which is catered pursuant to  
 15 this subsection.

16 (d) The licensee shall file with each application for  
 17 an event to be catered a written statement of approval of  
 18 the premises where the event is to be held issued by the  
 19 department of health and environmental sciences AND THE  
 20 LOCAL LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION OVER THE  
 21 PREMISES WHERE THE EVENT IS TO BE HELD.

22 (e) The sale of alcoholic beverages pursuant to a  
 23 catering endorsement is subject to the provisions of  
 24 16-6-103.

25 (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 16-4-301, MCA, is amended to read:

"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and issuance.

(1) (a) Any association or corporation conducting a picnic, convention, fair, civic or community enterprise, or sporting event shall in the discretion of the liquor division be entitled to a special permit to sell beer and table wine to the patrons of such event to be consumed within the enclosure wherein the event is held.

(b) The application of any such association or corporation shall be ~~presented 10 days in advance filed with the department prior to the event~~ PRESENTED 3 DAYS IN ADVANCE and shall describe the location of such enclosure

where such event is to be held, the nature of the event, and the period when it is contemplated that the event will be held. The application shall be accompanied by the amount of the permit fee ~~AND A WRITTEN STATEMENT OF APPROVAL OF THE PREMISES WHERE THE EVENT IS TO BE HELD ISSUED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND THE LOCAL LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION OVER THE PREMISES WHERE THE EVENT IS TO BE HELD.~~

(c) The permit issued to such association or corporation is a special permit but shall not authorize the sale of beer and table wine except starting 1 day in advance of the regular period when events are being held upon such grounds and during the period described in the application and for 1 day thereafter.

(2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code shall, in the discretion of the department, without notice or hearing as provided in 16-4-207, be entitled to a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at such post or lodge to members and their guests only, to be consumed within the hall or building of such post or lodge.

(b) The application of such nationally chartered veterans' organization or lodge of a recognized national

1 fraternal organization shall describe the location of the  
2 hall or building where the special permit will be used and  
3 the date it will be used.

4 (c) The special permit issued shall be for a 24-hour  
5 period only ending at 2 a.m., and the department may not  
6 issue more than 12 such permits to any such post or lodge  
7 during a calendar year."

8 Section 3. Section 16-4-402, MCA, is amended to read:

9 "16-4-402. Application -- Investigation. (1) Prior to  
10 the issuance of any license under this chapter, the  
11 applicant shall file with the department an application in  
12 writing, signed by the applicant and containing such  
13 information and statements relative to the applicant and the  
14 premises where the alcoholic beverage is to be sold as may  
15 be required by the department. The application shall be  
16 verified by the affidavit of the person making the same  
17 before a person authorized to administer oaths.

18 (2) Upon receipt of a completed application for a  
19 license under this code, accompanied by the necessary  
20 license fee, the department shall within 30 days make a  
21 thorough investigation of all matters pertaining thereto and  
22 shall determine whether such applicant is qualified to  
23 receive a license and his premises are suitable for the  
24 carrying on of the business and whether the requirements of  
25 this code and the rules promulgated by the department are

1 met and complied with. ~~This subsection does not apply to a~~  
2 ~~catering endorsement provided in 16-4-204(7) or a special~~  
3 ~~permit provided in 16-4-301.~~

4 (3) Upon proof that any applicant made a false  
5 statement in any part of the application, the application  
6 for the license may be denied, and if issued, the license  
7 may be revoked."

-End-