

HOUSE BILL NO. 384

INTRODUCED BY J. HAMMOND

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

January 19, 1873	Introduced and referred to Committee on Labor and Employment Relations.
February 1, 1983	Committee recommend bill do pass as amended. Report adopted.
February 2, 1983	Bill printed and placed on members' desks.
February 3, 1983	Second reading, do pass.
February 4, 1983	Considered correctly engrossed.
February 5, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 7, 1983	Introduced and referred to Committee on Labor and Employment Relations.
March 19, 1983	Committee recommend bill be concurred in. Report adopted.
March 22, 1983	Second reading, concurred in.
March 24, 1983	Third reading, concurred in. Ayes, 42; Noes, 7.

IN THE HOUSE

March 24, 1983

Returned to House.

March 25, 1983

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 384
 2 INTRODUCED BY J. Hammond
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE
 6 RESTAURANT, BAR, AND TAVERN WAGE PROTECTION ACT TO REQUIRE
 7 THE BONDING OF ALL RESTAURANTS, BARS, AND TAVERNS; ALLOWING
 8 THE COMMISSIONER OF LABOR AND INDUSTRY TO WAIVE THE BONDING
 9 REQUIREMENT; PROVIDING A GRANDFATHER CLAUSE; AMENDING
 10 SECTIONS 39-3-602 THROUGH 39-3-605, 39-3-607, AND 39-3-608,
 11 MCA."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 39-3-602, MCA, is amended to read:
 15 "39-3-602. Purpose. The purpose of this part is to
 16 protect the state of Montana and employees of ~~lessees~~
 17 ~~conducting--business~~ persons operating businesses as
 18 restaurants, bars, and taverns; to assure the payment of
 19 wages to such employees in the event the ~~lessee person~~
 20 ceases operation of his business and is unable to pay the
 21 wages due and owing to his employees; and to assure the
 22 payment of payroll taxes to the department of ~~labor and~~
 23 ~~industry.~~"
 24 Section 2. Section 39-3-603, MCA, is amended to read:
 25 "39-3-603. Definitions. For the purposes of this part,

1 the words and phrases used herein have the following
 2 meaning:
 3 (1) "Bar" or "tavern" means a house where liquor or
 4 beer is sold to be drunk on the premises.
 5 (2) "Beer" means any beverage so defined in the
 6 Montana Alcoholic Beverages Code.
 7 (3) "Business" means a commercial enterprise of any
 8 kind involving the buying and selling of goods.
 9 (4) "Commissioner" means the commissioner of labor and
 10 industry provided for in 2-15-1701.
 11 (5) "Department" means the department of labor and
 12 industry provided for in 2-15-1701.
 13 ~~(4)(6)~~ "Employee" means a person who works for wages
 14 or salary in the service of an employer.
 15 ~~(5)--"Lessee"--means one to whom a lease is made~~
 16 ~~(6)(7)~~ "Liquor" means any beverage so defined in the
 17 Montana Alcoholic Beverages Code.
 18 ~~(7)(8)~~ "Person" includes any establishment, firm,
 19 partnership, corporation, person, or association of persons.
 20 ~~(8)(9)~~ "Restaurant" means a public eating house where
 21 food is prepared and served for human consumption on the
 22 premises."
 23 Section 3. Section 39-3-604, MCA, is amended to read:
 24 "39-3-604. Bond to be filed by ~~lessee~~ — bond
 25 requirements. (1) Every person ~~who leases from another~~

~~person--premises--for--the--purpose--of--conducting--therein~~
operating a business as a restaurant, bar, or tavern is
hereby required to file a bond equal to at least double the
amount of the projected semimonthly payroll with the
commissioner ~~of--labor--and--industry~~. Said bond shall at all
times be kept in full force and effect and any cancellation
or revocation thereof or withdrawal of the sureties
therefrom is grounds for enjoining the ~~conduct operation~~ of
business, as provided for in 39-3-607, until such time as a
new bond of like tenure and effect shall have been filed and
approved as herein provided.

(2) The bond ~~and affidavit~~ required by subsection (1)
of this section shall be filed with the commissioner of
~~labor--and--industry~~. The state of Montana shall be named as
the obligee therein, with good and sufficient sureties to be
approved by the attorney general.

(3) Such bond shall be conditioned to assure that ~~in~~
~~any--lease--transaction--of--the--type--referred--to--in--39-3-600~~
the persons employees who perform labor or other personal
services ~~for--the--lessee~~ are guaranteed their wages in the
event the ~~lessee~~ person ceases operation of the business for
any reason and is unable to pay the wages due and owing the
employees and to assure payment due the ~~division--of~~
~~employment--security department~~ as a result of payroll taxes.

(4) Except as provided in 39-3-605(2), this section

does not apply to any person who has operated the same
restaurant, bar, or tavern continuously since October 1,
1980."

Section 4. Section 39-3-605, MCA, is amended to read:

"39-3-605. New Waiver of bond -- new or additional
bond. (1) After 3 years of compliance with this part, the
commissioner may waive the provisions of 39-3-604 for any
person showing compliance with the applicable provisions of
the Fair Labor Standards Act and all the applicable laws
administered by the department.

(2) Notwithstanding 39-3-604(4) and subsection (1) of
this section, The the commissioner of labor and industry may
require a person operating a restaurant, bar, or tavern,
including a person who has been in business since October 1,
1980, or for over 3 years, to file a new bond or a bond of a
greater amount than double the semimonthly payroll whenever
the commissioner deems it necessary for the protection of
the state of Montana or the employees of a lessee person
operating a restaurant, bar, or tavern."

Section 5. Section 39-3-607, MCA, is amended to read:

"39-3-607. Enjoining ~~lessee's~~ business until bond
filed. If any person ~~engages in the~~ operates a restaurant,
bar, or tavern business ~~as lessee~~ without having first filed
a bond as required by 39-3-604~~(1)~~ or by 39-3-605, the
attorney general, the commissioner of ~~labor and industry~~, or

1 any citizen, group of citizens, or any association in the
2 county where the violator ~~conducts~~ operates his business may
3 institute an action to enjoin such person from ~~engaging--in~~
4 operating the business until compliance with this part has
5 been met."

6 Section 6. Section 39-3-608, MCA, is amended to read:

7 "39-3-608. Unlawful for--~~lessee~~ to operate business
8 without bond. From and after ~~July 1, 1965~~ October 1, 1983,
9 it shall be unlawful for any person to ~~lease-premises-to-be~~
10 ~~used-as-the-place-for-conducting~~ operate a restaurant, bar,
11 or tavern business without first having filed with the
12 commissioner of ~~labor-and-industry~~ a bond in accordance with
13 the requirements of 39-3-604~~(1)~~ or 39-3-605."

-End-

Approved by Committee
on Labor & Employment
Relations

HOUSE BILL NO. 384

INTRODUCED BY J. HAMMOND

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE
RESTAURANT, BAR, AND TAVERN WAGE PROTECTION ACT TO REQUIRE
THE BONDING OF ALL RESTAURANTS, BARS, AND TAVERNS; ALLOWING
THE COMMISSIONER OF LABOR AND INDUSTRY TO WAIVE THE BONDING
REQUIREMENT; PROVIDING A GRANDFATHER CLAUSE; AMENDING
SECTIONS 39-3-602 THROUGH 39-3-605, 39-3-607, AND 39-3-608,
MCA."

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

Section 1. Section 39-3-602, MCA, is amended to read:

"39-3-602. Purpose. The purpose of this part is to
protect the state of Montana and employees of ~~tenessees~~
~~conducting--business persons operating businesses~~ as
restaurants, bars, and taverns; to assure the payment of
wages to such employees in the event the ~~tessee person~~
ceases operation of his business and is unable to pay the
wages due and owing to his employees; and to assure the
payment of payroll taxes to the department of ~~labor--and~~
~~industry.~~"

Section 2. Section 39-3-603, MCA, is amended to read:

"39-3-603. Definitions. For the purposes of this part,

the words and phrases used herein have the following
meanings:

(1) "Bar" or "tavern" means a house where liquor or
beer is sold to be drunk on the premises.

(2) "Beer" means any beverage so defined in the
Montana Alcoholic Beverages Code.

(3) "Business" means a commercial enterprise of any
kind involving the buying and selling of goods.

~~(4) "Commissioner" means the commissioner of labor and~~
~~industry provided for in 2-15-1701.~~

~~(5) "Department" means the department of labor and~~
~~industry provided for in 2-15-1701.~~

~~(4)(6)~~ "Employee" means a person who works for wages
or salary in the service of an employer.

~~(5)--"tessee"--means one to whom a lease is made~~

~~(6)(7)~~ "Liquor" means any beverage so defined in the
Montana Alcoholic Beverages Code.

~~(7)(8)~~ "Person" includes any establishment, firm,
partnership, corporation, person, or association of persons.

~~(8)(9)~~ "Restaurant" means a public eating house where
food is prepared and served for human consumption on the
premises."

Section 3. Section 39-3-604, MCA, is amended to read:

"39-3-604. Bond to be filed by ~~tessee~~ -- bond
requirements. (1) Every person who ~~leases--from--another~~

1 person--premises--for--the--purpose--of--conducting--therein
 2 operating a business as a restaurant, bar, or tavern is
 3 hereby required to file a bond equal to at least double the
 4 amount of the projected semimonthly payroll with the
 5 commissioner of--labor-and-industry. Said bond shall at all
 6 times be kept in full force and effect and any cancellation
 7 or revocation thereof or withdrawal of the sureties
 8 therefrom is grounds for enjoining the conduct operation of
 9 business, as provided for in 39-3-607, until such time as a
 10 new bond of like tenure and effect shall have been filed and
 11 approved as herein provided.

12 (2) The bond end-affidavit required by subsection (1)
 13 of this section shall be filed with the commissioner of
 14 labor-and-industry. The state of Montana shall be named as
 15 the obligee therein, with good and sufficient sureties to be
 16 approved by the attorney general.

17 (3) Such bond shall be conditioned to assure that in
 18 any-lease-transaction-of-the-type-referred-to--in--39-3-606
 19 the persons employees who perform labor or other personal
 20 services for-the-lessee are guaranteed their wages in the
 21 event the lessee person ceases operation of the business for
 22 any reason and is unable to pay the wages due and owing the
 23 employees and to assure payment due the division--of
 24 employment-security department as a result of payroll taxes.

25 (4) Except as provided in 39-3-605(2), this section

1 does not apply to any person who has operated the same
 2 restaurant, bar, or tavern continuously since October 1,
 3 1980."

4 Section 4. Section 39-3-605, MCA, is amended to read:
 5 "39-3-605. New Waiver of bond -- New or additional
 6 bond. (1) After 3 years of compliance with this part, the
 7 commissioner may SHALL waive the provisions of 39-3-604 for
 8 any person showing compliance with the applicable provisions
 9 of the Fair Labor Standards Act and all the applicable laws
 10 administered by the department.

11 (2) Notwithstanding 39-3-604(4) and subsection (1) of
 12 this section, the the commissioner of labor-and-industry may
 13 require a person operating a restaurant, bar, or tavern,
 14 including a person who has been in business since October 1,
 15 1980, or for over 3 years, to file a new bond or a bond of a
 16 greater amount than double the semimonthly payroll whenever
 17 the commissioner deems it necessary for--the--protection--of
 18 the--state--of--Montana--or--the--employees--of--a--lessee person
 19 operating a restaurant, bar, or tavern DEFAULTS ON THE
 20 PAYMENT OF WAGES, PAYROLL TAXES, OR WORKERS' COMPENSATION
 21 PREMIUMS."

22 Section 5. Section 39-3-607, MCA, is amended to read:
 23 "39-3-607. Enjoining lessee's business until bond
 24 filed. If any person engages-in-the operates a restaurant,
 25 bar, or tavern business as-lessee without having first filed

1 a bond as required by 39-3-604~~(1)~~ or by 39-3-605, the
2 attorney general, the commissioner of ~~labor and industry~~, or
3 any citizen, group of citizens, or any association in the
4 county where the violator conducts ~~operates~~ his business may
5 institute an action to enjoin such person from ~~engaging in~~
6 ~~operating~~ the business until compliance with this part has
7 been met."

8 Section 6. Section 39-3-608, MCA, is amended to read:
9 "39-3-608. Unlawful for ~~teease~~ to operate business
10 without bond. From and after ~~July 1, 1965~~ October 1, 1981,
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15 the requirements of 39-3-604~~(1)~~ or 39-3-605."

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

Section 1. Section 39-3-602, MCA, is amended to read:

"39-3-602. Purpose. The purpose of this part is to protect the state of Montana and employees of ~~lessees~~ ~~conducting--business~~ persons operating businesses as restaurants, bars, and taverns; to assure the payment of wages to such employees in the event the ~~lessee person~~ ceases operation of his business and is unable to pay the wages due and owing to his employees; and to assure the payment of payroll taxes to the department of ~~labor--and~~ industry."

Section 2. Section 39-3-603, MCA, is amended to read:

"39-3-603. Definitions. For the purposes of this part,

the words and phrases used herein have the following meaning:

(1) "Bar" or "tavern" means a house where liquor or beer is sold to be drunk on the premises.

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~~(4) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.~~

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 14 labor-and-industry. The state of Montana shall be named as
 15 the obligee therein, with good and sufficient sureties to be
 16 approved by the attorney general.

17 (3) Such bond shall be conditioned to assure that in
 18 any-lease-transaction-of-the-type-referred-to--in--39-3-600
 19 the persons ~~employees~~ who perform labor or other personal
 20 services for-the-lessee are guaranteed their wages in the
 21 event the lessee person ceases operation of the business for
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 23 employees and to assure payment due the ~~division--of~~
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-End-