HOUSE BILL NO. 384

S. Shares

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 Sading, concurred in.
March 24, 1983	Third reading, concurred in. Ayes, 42; Noes, 7.

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IN THE HOUSE

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March 24, 1983

March 25, 1983

Returned to House. Sent to enrolling.

Reported correctly enrolled.

LC 0478/01

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

the words and phrases used herein have the following 1 meaning: 2 (1) "Bar" or "tavern" means a house where liquor or 3 beer is sold to be drunk on the premises. (2) "Seer" means any beverage so defined in the 5 Nontana Alcoholic Beverages Code. ٨ (3) "Business" means a commercial enterprise of any 7 kind involving the buying and selling of goods. 8 (4) "Commissioner" means the commissioner of labor and 9 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 +51--#Lessee#-#cons-one-to-whom-a-lease-is-mader (6)(7) "Liquor" means any beverage so defined in the 16 Montana Alcoholic Beverages Code. 17 (7)(8) "Person" includes any establishment, firm, 18 19 partnership, corporation, person, or association of persons. (8)(9) "Restaurant" means a public eating house where 20 21 food is prepared and served for human consumption on the 22 premises." Section 3. Section 39-3-604, MCA, is amended to read: 23 24 #39-3-604. Bond to be filed by--lessee -- bond requirements. (1) Every person who-leases-from-another 25

INTRODUCED BILL

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

12 (2) The bond and-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.

(3) Such bond shall be conditioned to assure that in 17 any-lease-transaction-of-the-type-referred--to--in---39-3-688 18 the persons employees who perform labor or other personal 19 services for the lessee are quaranteed their wages in the 20 event the lessee person ceases operation of the business for 21 any reason and is unable to pay the wages due and owing the 2Z 23 employees and to assure payment due the division---of employment-security department as a result of payroll taxes. 24 (4) Except as provided in 39-3-605(2). this section 25

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l	does not apply to any person who has operated the same
z	restaurant. bar. or tayern continuously since October 1.
3	<u>1980</u> *
4	Section 4. Section 39-3-605, MCA, is amended to read:
5	*39-3-605. New <u>Waiver of bond</u> - new or additional
6	bond. (1) After 3 years of compliance with this part, the
7	commissioner may valve the provisions of 39-3-604 for any
8	person showing compliance with the applicable provisions of
9	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 leasee <u>person</u>
19	operating a restaurant, bar, or tavern."
20	Section 5. Section 39-3-607, MCA, is amended to read:
21	¶39-3~607. Enjoining lessee≛s business until bond
22	filed. If any person engages in the operates a restaurant,
23	bar, or tavern business as lessee without having first filed
24	a bond as required by 39-3-604 (1) or by 39-3-605, the

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attorney general, the commissioner of-labor-and-industry, or

25

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

Section 6. Section 39-3-608, MCA, is amended to read: 6 7 "39-3-608. Unlawful for-lessee to operate business 8 without bond. From and after July-19-1965 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-lobor-ond-industry a bond in accordance with 13 the requirements of 39-3-604(1) or 39-3-605."

HB 0384/02

Approved by Committee on Labor & Employment Relations

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	HC A
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	conductingbusiness <u>persons</u>operatingbusinesses as
18	restaurants, bars, and taverns; to assure the payment of
19	wages to such employees in the event the lessee <u>person</u>
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 oflaborand
23	industry."
26	Section 2. Section 39+3-603. Wike is amonded to read-

24 Section 2. Section 39-3-603, NCA, is amended to read:
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1 the words and phrases used herein have the following 2 meaning: 3 (1) "Bar" or "tavern" means a house where liquor or beer is sold to be drunk on the premises. 4 (2) "Beer" means any beverage so defined in the 5 6 Montana Alcoholic Beverages Code. 7 (3) "Business" means a commercial enterprise of any kind involving the buying and selling of goods. 8 9 (1)___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 t+<u>1161</u> "Employee" means a person who works for wages 14 or salary in the service of an employer. 15 15)--*tessee*-means-one-to-whom-a-tesse-is-made* 16 f6+171 "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 f0f(2) "Restaurant" means a public eating house where 21 food is prepared and served for human consumption on the 22 Dremises." 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--lenses--from--another

-2-- HB 384 SECOND READING

1 person--presises--for--the--purpose--of--conducting--therein 2 <u>operating</u> 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--lobor-and-industry. Said bond shall at all times be kept in full force and effect and any cancellation 6 or revocation thereof or withdrawal of the sureties 7 8 therefrom is grounds for enjoining the conduct operation of business, as provided for in 39-3-607, until such time as a 9 new bond of like tenure and effect shall have been filed and 10 11 approved as herein provided.

12 (2) The bond ond-affidavit required by subsection (1) 13 of this section shall be filed with the commissioner of 14 hober-and-industry. The state of Montana shall be named as 15 the obligae 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 15 any-lease-transaction-of-the-type-referred--to--in--39-3-600 19 the persons gaployees who perform labor or other personal 20 services for-the-lesses are guaranteed their wages in the 21 event the tessee 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. 25 141__Except__as__provided_in_39=3=605(2), this section

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10 administered by the department.

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11 (2) Notwithstanding 39-3-604(4) and subsection (1) of this_sections The the commissioner of-labor-and-industry may 12 13 require a person operating a restaurante bare of tayerse Including a person who has been in business since October 1: 14 1980, or for over 3 years, to file a new bond or a bond of a 15 16 greater amount than double the semimonthly payroll whenever 17 the commissioner-deems-it-necessary-for--the--protection--of the--state--of--Montana--of-the-employees-of-o-lesses Derson 18 19 operating a restaurants bars or taxern DEFAULTS ON THE PAYMENT_DE_WAGES*_PAYROLL_TAXES*_OB_WORKERS*_COMPENSATION 20 PREMIUNS-" 21 Section 5. Section 39-3-607, MCA, is amended to read: 22 #39+3-607. Enjoining lesseets business until bond 23 filed. If any person engages-in-the operates...a restaurant+ 24 25 bar, or tavern business as-lessee without having first filed

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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."

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HB 384

THIRD READING

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HB 384

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7	THE BUNDING OF ALL RESTAURANTS, BARS, AND TAVERNS; ALLOWING
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18	restaurants, bars, and taverns; to assure the payment of
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REFERENCE BILL

person--premises--for--the--purpase--of--conducting--therein 1 2 operating a business as a restaurant, par, or tavern is hereby required to file a bond equal to at least double the 3 amount of the projected semimonthly payroll with the 4 commissioner of--- abor-and-industry. Said bond shall at all 5 times be kept in full force and effect and any cancellation 6 revocation thereof or withdrawal of the sureties 7 or 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.

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1	<u>does not apply to any person who has operated the same</u>
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11	[2]Notwithstanding32-3-604(4)_and_subsection_[1]_of
12	<u>this_section.</u> The <u>the</u> commissioner of-labor-and-industry may
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HB 0384/02

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