

HOUSE BILL NO. 923

INTRODUCED BY FAGG, METCALF

BY REQUEST OF THE HOUSE COMMITTEE
ON BUSINESS AND INDUSTRY

IN THE HOUSE

March 23, 1983	On motion, rules suspended and bill allowed to be introduced.
March 25, 1983	Introduced and referred to Committee on Business and Industry.
March 30, 1983	Committee recommend bill do pass as amended. Report adopted.
March 31, 1983	Bill printed and placed on members' desks.
April 4, 1983	Second reading, do pass as amended.
April 5, 1983	Correctly engrossed.
April 6, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

April 7, 1983	Introduced and referred to Committee on Rules.
April 11, 1983	On motion bill accepted and placed in proper committee.
April 12, 1983	Rereferred to Committee on Business and Industry.
April 13, 1983	Rereferred to Committee on Taxation.

April 14, 1983

Committee recommend bill be
concurrent in. Report
adopted.

Second reading, concurrent in.

April 15, 1983

Third reading, concurrent in.
Ayes, 48; Noes, 0.

IN THE HOUSE

April 15, 1983

Returned to House.

April 16, 1983

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 923
2 INTRODUCED BY Frank Metcalf
3 BY REQUEST OF THE HOUSE COMMITTEE
4 ON BUSINESS AND INDUSTRY
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE CRITERIA
7 FOR TRANSFER OF AN ALL-BEVERAGES LIQUOR LICENSE TO A NEW
8 LOCATION AND OWNERSHIP OUTSIDE ITS ORIGINAL QUOTA AREA BY
9 INCREASING THE PERCENTAGE BY WHICH THE NUMBER OF SUCH
10 LICENSES IN THE NEW QUOTA AREA MAY EXCEED THAT AREA'S QUOTA;
11 AMENDING SECTION 16-4-204, MCA; AND PROVIDING AN IMMEDIATE
12 EFFECTIVE DATE."
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 Section 1. Section 16-4-204, MCA, is amended to read:
16 "16-4-204. Contents of license -- posting -- privilege
17 -- catering endorsement -- transfer -- expiration. (1) Every
18 license issued under this part shall set forth the name of
19 the person to whom issued, the location, by street and
20 number or other appropriate specific description of location
21 if no street address exists, of the premises where the
22 business is to be carried on under said license, and such
23 other information as the department shall deem necessary.
24 If the licensee is a partnership or if more than one person
25 has any interest in the business operated under the license,

1 the names of all persons in the partnership or interested in
2 the business must appear on the license. Every license must
3 be posted in a conspicuous place on the premises wherein the
4 business authorized under the license is conducted, and such
5 license shall be exhibited upon request to any authorized
6 representative of the department or to any peace officer of
7 the state of Montana.
8 (2) Any license issued under the provisions of this
9 part shall be considered a privilege personal to the
10 licensee named in the license and shall be good until the
11 expiration of the license unless sooner revoked or
12 suspended.
13 (3) A license may be transferred to the executor or
14 administrator of the estate of any deceased licensee when
15 such estate consists in whole or in part of the business of
16 selling liquor under a license, and in such event the
17 license may descend or be disposed of with the business to
18 which it is applicable under appropriate probate
19 proceedings.
20 (4) In the event of a major loss or damage to licensed
21 premises by unforeseen natural causes or in case of
22 expiration of lease of the licensed premises or in the event
23 of eviction or increase of rent by the landlord (in case of
24 rented licensed premises) or in case of proposed removal of
25 license to premises as substantially suited for the retail

1 liquor business as the premises vacated, the licensee may
2 apply to the department for a transfer of the license to
3 different premises. The department may in its discretion
4 permit a transfer in such cases if it appears to the
5 department that such a transfer is required to do justice to
6 the licensee applying for the transfer. The department
7 shall in no event nor for any cause permit a transfer to
8 different premises where the sanitary, health, and service
9 facilities are less satisfactory than such facilities which
10 exist or had existed at the premises from which the transfer
11 is proposed to be made.

12 (5) Upon a bona fide sale of the business operated
13 under any license, the license may be transferred to a
14 qualified purchaser. No transfer of any license as to
15 person or location shall be effective unless and until
16 approved by the department, and any licensee or transferee
17 or proposed transferee who operates or attempts to operate
18 under any supposedly transferred license prior to the
19 approval of such transfer by the department, endorsed upon
20 the license in writing, shall be considered as operating
21 without a license and the license affected may be revoked or
22 suspended by the department. The department may, within its
23 discretion, permit a qualified purchaser to operate the
24 business to be transferred pending final approval, providing
25 the application for transfer has been filed with the

1 department.

2 (6) (a) 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%~~ 50% in the most
12 recent 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.

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

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

10 ~~NEW SECTION.~~ Section 2. Effective date. This act is
11 effective on passage and approval.

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Approved by Committee
on Business and Industry

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8 (2) Any license issued under the provisions of this
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11 expiration of the license unless sooner revoked or
12 suspended.

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16 selling liquor under a license, and in such event the
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19 proceedings.

20 (4) In the event of a major loss or damage to licensed
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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%~~ ~~40%~~ in the most
 12 recent census prescribed in 16-4-502;

13 ~~(A) BY MORE THAN 33%; OR~~

14 ~~(B) IN AN INCORPORATED CITY OF MORE THAN 10,000~~
 15 ~~INHABITANTS AND WITHIN A DISTANCE OF 5 MILES FROM ITS~~
 16 ~~CORPORATE LIMITS BY MORE THAN 40%; and~~

17 (iii) the department finds, after a public hearing,
 18 that the public convenience and necessity would be served by
 19 such a transfer.

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 21 transferred to a new ownership and to a new unincorporated
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21 license to allow the catering and sale of alcoholic
22 beverages to persons attending a special event upon premises
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 10 quota area to which the license would be transferred did not
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(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

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 12 recent census prescribed in 16-4-502;

13 ~~(A) BY MORE THAN 33% OR~~

14 ~~(B) IN AN INCORPORATED CITY OF MORE THAN 10,000~~
 15 ~~INHABITANTS AND WITHIN A DISTANCE OF 5 MILES FROM ITS~~
 16 ~~CORPORATE LIMITS BY MORE THAN 40% 43%; and~~

17 (iii) the department finds, after a public hearing,
 18 that the public convenience and necessity would be served by
 19 such a transfer.

20 (b) A license within an incorporated quota area may be
 21 transferred to a new ownership and to a new unincorporated
 22 location within the same county on application to and with
 23 consent of the department when the quota of the
 24 all-beverages licenses in the original quota area exceeds
 25 the quota for that area by at least 25% in the most recent

1 census and will not fall below that level because of the
2 transfer.

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

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

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

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

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

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

23 (e) The sale of alcoholic beverages pursuant to a
24 catering endorsement is subject to the provisions of
25 16-6-103.

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

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

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

14 ~~NEW SECTION.~~ Section 2. Effective date. This act is
15 effective on passage and approval.

-End-