

SENATE BILL NO. 53

INTRODUCED BY GALT

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 3, 1983	Introduced and referred to Committee on Business and Industry.
January 5, 1983	Fiscal note requested.
January 7, 1983	Fiscal note returned.
January 10, 1983	Committee recommend bill do pass. Report adopted.
January 11, 1983	Bill printed and placed on members' desks.
January 12, 1983	Second reading, do pass.
January 13, 1983	Considered correctly engrossed.
January 14, 1983	Third reading, passed. Ayes, 44; Noes, 0. Transmitted to House.

IN THE HOUSE

January 15, 1983	Introduced and referred to Committee on Business and Industry.
February 14, 1983	Committee recommend bill be concurred in. Report adopted.
February 16, 1983	Motion pass consideration until 46th legislative day.
February 28, 1983	Second reading, concurred in.
March 1, 1983	Third reading, concurred in.

IN THE SENATE

March 2, 1983

Returned to Senate. Sent to  
enrolling.

Reported correctly enrolled.

SENATE BILL NO. 53

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE OFFICIAL SEAL ON LIQUOR PACKAGES; PROHIBITING ANY OPEN LIQUOR CONTAINERS IN A STATE LIQUOR STORE; AMENDING SECTIONS 16-1-303, 16-2-107, AND 16-6-104, MCA; REPEALING SECTIONS 16-2-102 AND 16-3-102, MCA."

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

Section 1. Section 16-1-303, MCA, is amended to read:

"16-1-303. Department rules. (1) The department may make such rules not inconsistent with this code as to the department seem necessary for carrying out the provisions of this code and for the efficient administration thereof.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) hereof, it is declared that the power of the department to make rules in the manner set out in that subsection shall extend to and include the following:

(a) regulating the equipment and management of state stores and warehouses in which liquor or table wine is kept or sold and prescribing the books and records to be kept therein;

(b) prescribing the duties of the employees of the

liquor division and regulating their conduct while in the discharge of their duties;

(c) governing the purchase of liquor and the furnishing of liquor to state stores established under this code;

(d) determining the classes, varieties, and brands of liquor and table wine to be kept for sale at any state store;

(e) prescribing, subject to this code, the hours during which state liquor stores shall be kept open for the sale of alcoholic beverages;

(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety, or brand of liquor and table wine kept for sale under this code;

~~(g) prescribing an official seal which shall be attached to every package of liquor sold or sealed under this code;~~

~~(h)(g)~~ prescribing forms to be used for the purpose of this code or of the rules made thereunder and the terms and conditions in permits and licenses issued and granted under this code;

~~(i)(h)~~ prescribing the form of records of purchase of liquor and table wine and the reports to be made thereon to the division and providing for inspection of the records so

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SB53

1 kept;

2 ~~(j)(i)~~ prescribing the manner of giving and serving

3 notices required by this code or the rules thereunder;

4 ~~(k)(i)~~ prescribing the fees payable in respect of

5 permits and licenses issued under this code for which no

6 fees are prescribed in this code and prescribing the fees

7 for anything done or permitted to be done under the rules

8 made thereunder;

9 ~~(l)(k)~~ prescribing, subject to the provisions of this

10 code, the conditions and qualifications necessary for the

11 obtaining of a liquor or beer license and the books and

12 records to be kept and the returns to be made by the

13 licensees and providing for the inspection of such licensed

14 premises;

15 ~~(m)(i)~~ specifying and describing the place and the

16 manner in which liquor or beer may be lawfully kept or

17 stored;

18 ~~(n)(i)~~ specifying and regulating the time and periods

19 when and the manner, methods, and means by which vendors and

20 brewers shall deliver liquor under this code and the time

21 and periods when and the manner, methods, and means by which

22 liquor, under this code, may be lawfully conveyed or

23 carried;

24 ~~(o)(i)~~ governing the conduct, management, and

25 equipment of any premises licensed to sell liquor or beer

1 under this code;

2 ~~(p)(i)~~ providing for the imposition and collection of

3 taxes and making rules respecting returns, accounting, and

4 payment of the taxes to the department.

5 (3) Whenever it is provided in this code that any act,

6 matter, or thing may be done if permitted or authorized by

7 the rules or may be done in accordance with the rules or as

8 provided by the rules, the department, subject to the

9 restrictions set out in subsection (1) hereof, shall have

10 the power to make rules respecting such act, matter, or

11 thing."

12 Section 2. Section 16-2-107, MCA, is amended to read:

13 "16-2-107. No open liquor container or liquor

14 consumption on premises of state store. No officer, clerk,

15 or ~~servant agent~~ of the department employed in the a state

16 store shall allow any liquor container to be opened on the

17 premises of a state store or allow any liquor to be consumed

18 on the premises of a state store, nor shall any person open

19 a liquor container or consume any liquor on such premises."

20 Section 3. Section 16-6-104, MCA, is amended to read:

21 "16-6-104. Unlawful alcoholic beverage -- seizure --

22 forfeiture. (1) Any investigator or peace officer who finds

23 an alcoholic beverage which he has reasonable cause to

24 believe is had or kept by any person in violation of the

25 provisions of this code may forthwith seize and remove the

1 same and the packages in which the alcoholic beverage is  
2 kept, and upon conviction of the person ~~for a violation of~~  
3 ~~any provision of 16-3-102~~, the alcoholic beverage and all  
4 packages containing the same shall, in addition to any other  
5 penalty prescribed by this code, ipso facto be forfeited to  
6 the state of Montana.

7 (2) Any beer which has been shipped into Montana and  
8 has not been shipped to and distributed from a warehouse of  
9 a licensed wholesaler shall be seized by any peace officer  
10 or representative of the department and may be confiscated  
11 in the manner as provided for the confiscation of  
12 intoxicating liquor."

13 NEW SECTION. Section 4. Repealer. Sections 16-2-102  
14 and 16-3-102, MCA, are repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 018-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 5, 19 83, there is hereby submitted a Fiscal Note or Senate Bill 53 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act eliminating the official seal on liquor packages; prohibiting any open liquor containers in a state liquor store.

ASSUMPTIONS:

- 1) Number of units sold is 8,179,984 annually, the FY 81 figure.
- 2) Time required to stamp bottles is the average for half gallons and fifths and is based on current procedure in Helena Store #1 in September 1981.
- 3) Incidental time associated with stamping bottles is 45 seconds per case, regardless of size.
- 4) The average wage per hour is \$6.264.
- 5) Stamps and label machines cost \$18,374 per year.
- 6) The estimated expenditure under the proposed law is approximately 40 percent of the total cost under the current law. This is based on the assumption that stamping will be discontinued only for cases sold to retail licenses (60 percent of total sales). Liquor Division staff report that labeling will still be needed for bottles sold in the stores (40 percent of total sales), because the labels (or seals) show the stock number. Clerks need the stock numbers for pricing and inventory control.

FISCAL IMPACT:

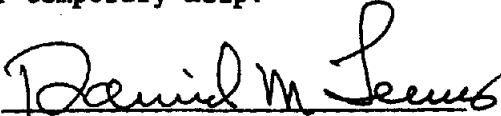
	<u>FY 84</u>	<u>FY 85</u>
Operating Expenses For Labeling Bottles		
Under Current Law	\$125,122.78	\$125,122.78
Under Proposed Law	50,049.11	50,049.11
Estimated Decrease	(75,073.67)	(75,073.67)

(A decrease in operating expenses will result in a corresponding increase in liquor profits, which are distributed to the general fund).

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

Savings will be in personnel time and rather than dollars. In some of the larger stores a cash savings may be realized by reducing the need for temporary help. Personnel savings in the future will depend on sales volume.

FISCAL1:T/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-7-83

Approved by Committee  
on Business and Industry

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Section 1. Section 16-1-303, MCA, is amended to read:

"16-1-303. Department rules. (1) The department may  
make such rules not inconsistent with this code as to the  
department seem necessary for carrying out the provisions of  
this code and for the efficient administration thereof.

(2) Without thereby limiting the generality of the  
provisions contained in subsection (1) hereof, it is  
declared that the power of the department to make rules in  
the manner set out in that subsection shall extend to and  
include the following:

(a) regulating the equipment and management of state  
stores and warehouses in which liquor or table wine is kept  
or sold and prescribing the books and records to be kept  
therein;

(b) prescribing the duties of the employees of the

liquor division and regulating their conduct while in the  
discharge of their duties;

(c) governing the purchase of liquor and the  
furnishing of liquor to state stores established under this  
code;

(d) determining the classes, varieties, and brands of  
liquor and table wine to be kept for sale at any state  
store;

(e) prescribing, subject to this code, the hours  
during which state liquor stores shall be kept open for the  
sale of alcoholic beverages;

(f) providing for the issuing and distributing of  
price lists showing the price to be paid by purchasers for  
each class, variety, or brand of liquor and table wine kept  
for sale under this code;

~~(g) prescribing an official seal which shall be  
attached to every package of liquor sold or sealed under  
this code;~~

~~(h)(g)~~ prescribing forms to be used for the purpose of  
this code or of the rules made thereunder and the terms and  
conditions in permits and licenses issued and granted under  
this code;

~~(i)(h)~~ prescribing the form of records of purchase of  
liquor and table wine and the reports to be made thereon to  
the division and providing for inspection of the records so

SECOND READING

1 kept;

2 ~~(+)(i)~~ prescribing the manner of giving and serving

3 notices required by this code or the rules thereunder;

4 ~~(+)(i)~~ prescribing the fees payable in respect of

5 permits and licenses issued under this code for which no

6 fees are prescribed in this code and prescribing the fees

7 for anything done or permitted to be done under the rules

8 made thereunder;

9 ~~(+)(i)~~ prescribing, subject to the provisions of this

10 code, the conditions and qualifications necessary for the

11 obtaining of a liquor or beer license and the books and

12 records to be kept and the returns to be made by the

13 licensees and providing for the inspection of such licensed

14 premises;

15 ~~(+)(i)~~ specifying and describing the place and the

16 manner in which liquor or beer may be lawfully kept or

17 stored;

18 ~~(+)(i)~~ specifying and regulating the time and periods

19 when and the manner, methods, and means by which vendors and

20 brewers shall deliver liquor under this code and the time

21 and periods when and the manner, methods, and means by which

22 liquor, under this code, may be lawfully conveyed or

23 carried;

24 ~~(+)(i)~~ governing the conduct, management, and

25 equipment of any premises licensed to sell liquor or beer

1 under this code;

2 ~~(+)(i)~~ providing for the imposition and collection of

3 taxes and making rules respecting returns, accounting, and

4 payment of the taxes to the department.

5 (3) Whenever it is provided in this code that any act,

6 matter, or thing may be done if permitted or authorized by

7 the rules or may be done in accordance with the rules or as

8 provided by the rules, the department, subject to the

9 restrictions set out in subsection (1) hereof, shall have

10 the power to make rules respecting such act, matter, or

11 thing."

12 Section 2. Section 16-2-107, MCA, is amended to read:

13 "16-2-107. No open liquor container or liquor

14 consumption on premises of state store. No officer, clerk,

15 or servant ~~agent~~ of the department employed in the a state

16 store shall allow any liquor container to be opened on the

17 premises of a state store or allow any liquor to be consumed

18 on the premises of a state store, nor shall any person open

19 a liquor container or consume any liquor on such premises."

20 Section 3. Section 16-6-104, MCA, is amended to read:

21 "16-6-104. Unlawful alcoholic beverage -- seizure --

22 forfeiture. (1) Any investigator or peace officer who finds

23 an alcoholic beverage which he has reasonable cause to

24 believe is had or kept by any person in violation of the

25 provisions of this code may forthwith seize and remove the

1 same and the packages in which the alcoholic beverage is  
2 kept, and upon conviction of the person ~~for a violation of~~  
3 ~~any provision of 16-3-102~~, the alcoholic beverage and all  
4 packages containing the same shall, in addition to any other  
5 penalty prescribed by this code, ipso facto be forfeited to  
6 the state of Montana.

7 (2) Any beer which has been shipped into Montana and  
8 has not been shipped to and distributed from a warehouse of  
9 a licensed wholesaler shall be seized by any peace officer  
10 or representative of the department and may be confiscated  
11 in the manner as provided for the confiscation of  
12 intoxicating liquor."

13 NEW SECTION. Section 4. Repealer. Sections 16-2-102  
14 and 16-3-102, MCA, are repealed.

-End-

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3            BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE  
4    A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE  
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16        (2) Without thereby limiting the generality of the  
17        provisions contained in subsection (1) hereof, it is  
18        declared that the power of the department to make rules in  
19        the manner set out in that subsection shall extend to and  
20        include the following:  
21            (a) regulating the equipment and management of state  
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23        or sold and prescribing the books and records to be kept  
24        therein;  
25            (b) prescribing the duties of the employees of the

1    liquor division and regulating their conduct while in the  
2    discharge of their duties;  
3            (c) governing the purchase of liquor and the  
4    furnishing of liquor to state stores established under this  
5    code;  
6            (d) determining the classes, varieties, and brands of  
7    liquor and table wine to be kept for sale at any state  
8    store;  
9            (e) prescribing, subject to this code, the hours  
10    during which state liquor stores shall be kept open for the  
11    sale of alcoholic beverages;  
12            (f) providing for the issuing and distributing of  
13    price lists showing the price to be paid by purchasers for  
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THIRD READING

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6 fees are prescribed in this code and prescribing the fees

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11 obtaining of a liquor or beer license and the books and

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14 premises;

15 ~~(f)(1)~~ specifying and describing the place and the

16 manner in which liquor or beer may be lawfully kept or

17 stored;

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19 when and the manner, methods, and means by which vendors and

20 brewers shall deliver liquor under this code and the time

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25 equipment of any premises licensed to sell liquor or beer

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21 "16-6-104. Unlawful alcoholic beverage -- seizure --

22 forfeiture. (1) Any investigator or peace officer who finds

23 an alcoholic beverage which he has reasonable cause to

24 believe is had or kept by any person in violation of the

25 provisions of this code may forthwith seize and remove the

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2 kept, and upon conviction of the person ~~for a violation of~~  
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6 the state of Montana.

7 (2) Any beer which has been shipped into Montana and  
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9 a licensed wholesaler shall be seized by any peace officer  
10 or representative of the department and may be confiscated  
11 in the manner as provided for the confiscation of  
12 intoxicating liquor."

13 NEW SECTION. Section 4. Repealer. Sections 16-2-102  
14 and 16-3-102, MCA, are repealed.

-End-

## 1 SENATE BILL NO. 53

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