

SENATE BILL NO. 75

INTRODUCED BY TURNAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

|                  |   |
|------------------|---|
| January 6, 1983  | Introduced and referred to Committee on Business and Industry.  |
| January 14, 1983 | Committee recommend bill do pass. Report adopted.               |
| January 15, 1983 | Bill printed and placed on members' desks.                      |
| January 17, 1983 | Second reading, do pass.  |
| January 18, 1983 | Considered correctly engrossed.                                 |
| January 19, 1983 | Third reading, passed. Ayes, 47; Noes, 0. Transmitted to House. |

IN THE HOUSE

|                   |  |
|-------------------|--|
| January 20, 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 the 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.

1 *Senate* BILL NO. 75  
2 INTRODUCED BY Turnage  
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE  
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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE LAW  
6 RELATING TO THE DETERMINATION OF THE NUMBER OF AVAILABLE  
7 RETAIL BEER LICENSES IN A CORPORATE CITY QUOTA AREA;  
8 AMENDING SECTION 16-4-105, MCA."  
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 Section 1. Section 16-4-105, MCA, is amended to read:  
12 "16-4-105. Limit on retail beer licenses -- wine  
13 license amendments -- off-premises consumption. (1) Except  
14 as otherwise provided by law, a license to sell beer at  
15 retail or beer and wine at retail, in accordance with the  
16 provisions of this code and the rules of the department, may  
17 be issued to any person, firm, or corporation who is  
18 approved by the department as a fit and proper person, firm,  
19 or corporation to sell beer, except that:  
20 (a) the number of retail beer licenses that the  
21 department may issue for premises situated within  
22 incorporated cities and incorporated towns and within a  
23 distance of 5 miles from the corporate limits of such cities  
24 and towns shall be determined on the basis of population  
25 prescribed in 16-4-502 as follows:

1 (i) in incorporated towns of 500 inhabitants or less  
2 and within a distance of 5 miles from the corporate limits  
3 of such towns, not more than one retail beer license, which  
4 may not be used in conjunction with a retail all-beverages  
5 license;  
6 (ii) in incorporated cities or incorporated towns of  
7 more than 500 inhabitants and not over 2,000 inhabitants and  
8 within a distance of 5 miles from the corporate limits of  
9 such cities or towns, one retail beer license for each 500  
10 inhabitants, which may not be used in conjunction with  
11 retail all-beverages licenses;  
12 (iii) in incorporated cities of over 2,000 inhabitants  
13 and within a distance of 5 miles from the corporate limits  
14 of such cities, four retail beer licenses for the first  
15 2,000 inhabitants, two additional retail beer licenses for  
16 the ~~first~~ next 2,000 inhabitants or major fraction thereof,  
17 and one additional retail beer license for each additional  
18 2,000 inhabitants, which may not be used in conjunction with  
19 retail all-beverages licenses;  
20 (b) the number of the inhabitants in such cities and  
21 towns, exclusive of the number of inhabitants residing  
22 within a distance of 5 miles from the corporate limits  
23 thereof, shall govern the number of retail beer licenses  
24 that may be issued for use within such cities and towns and  
25 within a distance of 5 miles from the corporate limits

-2- INTRODUCED BILL  
SB-75

1   thereof. If two or more incorporated municipalities are  
2   situated within a distance of 5 miles from each other, the  
3   total number of retail beer licenses that may be issued for  
4   use in both of such municipalities and within a distance of  
5   5 miles from their respective corporate limits shall be  
6   determined on the basis of the combined populations of both  
7   of such municipalities and may not exceed the foregoing  
8   limitations. The distance of 5 miles from the corporate  
9   limits of any incorporated city or incorporated town shall  
10   be measured over the shortest public road or highway from  
11   the nearest entrance of the premises proposed for licensing  
12   to the nearest corporate boundary of such city or town.

13       (c) retail beer licenses of issue on March 7, 1947,  
14   and which are in excess of the foregoing limitations shall  
15   be renewable, but no new licenses may be issued in violation  
16   of such limitations;

17       (d) such limitations do not prevent the issuance of a  
18   nontransferable and nonassignable retail beer license to a  
19   post of a nationally chartered veterans' organization or a  
20   lodge of a recognized national fraternal organization if  
21   such veterans' or fraternal organization has been in  
22   existence for a period of 5 years or more prior to January  
23   1, 1949;

24       (e) the number of retail beer licenses that the  
25   department may issue for use at premises situated outside of

1   any incorporated city or incorporated town and outside of  
2   the area within a distance of 5 miles from the corporate  
3   limits thereof or for use at premises situated within any  
4   unincorporated town shall be as determined by the department  
5   in the exercise of its sound discretion, except that no  
6   retail beer license may be issued for any premises so  
7   situated unless the department determines that the issuance  
8   of such license is required by public convenience and  
9   necessity.

10       (2) A person holding a license to sell beer for  
11   consumption on the premises at retail may apply to the  
12   department for an amendment to the license permitting the  
13   holder to sell wine as well as beer. The division may issue  
14   such amendment if it finds, on a satisfactory showing by the  
15   applicant, that the sale of wine for consumption on the  
16   premises would be supplementary to a restaurant or  
17   prepared-food business. A person holding a beer-and-wine  
18   license may sell wine for consumption on or off the  
19   premises. Nonretention of the beer license, for whatever  
20   reason, shall mean automatic loss of the wine amendment  
21   license.

22       (3) A retail license to sell beer or table wine, or  
23   both, in the original packages for off-premises consumption  
24   only may be issued to any person, firm, or corporation who  
25   is approved by the department as a fit and proper person,

1 firm, or corporation to sell beer or table wine, or both,  
2 and whose premises proposed for licensing are operated as a  
3 bona fide grocery store or a drugstore licensed as a  
4 pharmacy. The number of such licenses that the department  
5 may issue is not limited by the provisions of subsection (1)  
6 of this section but shall be determined by the department in  
7 the exercise of its sound discretion, and the department may  
8 in the exercise of its sound discretion grant or deny any  
9 application for any such license or suspend or revoke any  
10 such license for cause."

-End-

Approved by Committee  
on Business and Industry

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22 incorporated cities and incorporated towns and within a  
23 distance of 5 miles from the corporate limits of such cities  
24 and towns shall be determined on the basis of population  
25 prescribed in 16-4-502 as follows:

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2 and within a distance of 5 miles from the corporate limits  
3 of such towns, not more than one retail beer license, which  
4 may not be used in conjunction with a retail all-beverages  
5 license;

6 (ii) in incorporated cities or incorporated towns of  
7 more than 500 inhabitants and not over 2,000 inhabitants and  
8 within a distance of 5 miles from the corporate limits of  
9 such cities or towns, one retail beer license for each 500  
10 inhabitants, which may not be used in conjunction with  
11 retail all-beverages licenses;

12 (iii) in incorporated cities of over 2,000 inhabitants  
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18 2,000 inhabitants, which may not be used in conjunction with  
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20 (b) the number of the inhabitants in such cities and  
21 towns, exclusive of the number of inhabitants residing  
22 within a distance of 5 miles from the corporate limits  
23 thereof, shall govern the number of retail beer licenses  
24 that may be issued for use within such cities and towns and  
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1   thereof. If two or more incorporated municipalities are  
2   situated within a distance of 5 miles from each other, the  
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14   and which are in excess of the foregoing limitations shall  
15   be renewable, but no new licenses may be issued in violation  
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21   such veterans' or fraternal organization has been in  
22   existence for a period of 5 years or more prior to January  
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THIRD READING

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