

SENATE BILL NO. 144

INTRODUCED BY TURNAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 14, 1983	Introduced and referred to Committee on Business and Industry.
February 7, 1983	Committee recommend bill do pass. Report adopted.
February 8, 1983	Bill printed and placed on members' desks.
February 9, 1983	Second reading, do pass.
February 10, 1983	Correctly engrossed.
February 11, 1983	Third reading, passed. Ayes, 48; Noes, 1. Transmitted to House.

IN THE HOUSE

February 12, 1983	Introduced and referred to Committee on Business and Industry.
March 2, 1983	Committee recommend bill be concurred in. Report adopted.
March 3, 1983	Second reading, concurred in.
March 4, 1983	Third reading, concurred in.

IN THE SENATE

March 5, 1983	Returned to Senate. Sent to enrolling. Reported correctly enrolled.
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1 *Sen. Terry* BILL NO. *144*
2 INTRODUCED BY *Terry*
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
6 RESTRICTION ALLOWING ONLY NATURAL PERSONS TO HOLD A LIQUOR
7 LICENSE TRANSFERRED BETWEEN QUOTA AREAS; AMENDING SECTION
8 16-4-204, MCA."
9

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

11 Section 1. Section 16-4-204, MCA, is amended to read:

12 "16-4-204. Contents of license — posting — privilege
13 — catering endorsement — transfer — expiration. (1) Every
14 license issued under this part shall set forth the name of
15 the person to whom issued, the location, by street and
16 number or other appropriate specific description of location
17 if no street address exists, of the premises where the
18 business is to be carried on under said license, and such
19 other information as the department shall deem necessary.
20 If the licensee is a partnership or if more than one person
21 has any interest in the business operated under the license,
22 the names of all persons in the partnership or interested in
23 the business must appear on the license. Every license must
24 be posted in a conspicuous place on the premises wherein the
25 business authorized under the license is conducted, and such

1 license shall be exhibited upon request to any authorized
2 representative of the department or to any peace officer of
3 the state of Montana.

4 (2) Any license issued under the provisions of this
5 part shall be considered a privilege personal to the
6 licensee named in the license and shall be good until the
7 expiration of the license unless sooner revoked or
8 suspended.

9 (3) A license may be transferred to the executor or
10 administrator of the estate of any deceased licensee when
11 such estate consists in whole or in part of the business of
12 selling liquor under a license, and in such event the
13 license may descend or be disposed of with the business to
14 which it is applicable under appropriate probate
15 proceedings.

16 (4) In the event of a major loss or damage to licensed
17 premises by unforeseen natural causes or in case of
18 expiration of lease of the licensed premises or in the event
19 of eviction or increase of rent by the landlord (in case of
20 rented licensed premises) or in case of proposed removal of
21 license to premises as substantially suited for the retail
22 liquor business as the premises vacated, the licensee may
23 apply to the department for a transfer of the license to
24 different premises. The department may in its discretion
25 permit a transfer in such cases if it appears to the

1 department that such a transfer is required to do justice to
2 the licensee applying for the transfer. The department
3 shall in no event nor for any cause permit a transfer to
4 different premises where the sanitary, health, and service
5 facilities are less satisfactory than such facilities which
6 exist or had existed at the premises from which the transfer
7 is proposed to be made.

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

23 (6) (a) Except as provided in subsection (6)(b), a
24 license may be transferred to a new ownership and to a
25 location outside the quota area for which it was originally

1 issued only when the following criteria are met:

2 (i) the total number of all-beverages licenses in the
3 original quota area exceeded the quota for that area by at
4 least 25% in the most recent census prescribed in 16-4-502;

5 (ii) the total number of all-beverages licenses in the
6 quota area to which the license would be transferred did not
7 exceed that area's quota by more than 33% in the most recent
8 census prescribed in 16-4-502; and

9 (iii) the department finds, after a public hearing,
10 that the public convenience and necessity would be served by
11 such a transfer.

12 (b) A license within an incorporated quota area may be
13 transferred to a new ownership and to a new unincorporated
14 location within the same county on application to and with
15 consent of the department when the quota of the
16 all-beverages licenses in the original quota area exceeds
17 the quota for that area by at least 25% in the most recent
18 census and will not fall below that level because of the
19 transfer.

20 (c) For 5 years after the transfer of a license
21 between quota areas under subsection (6)(a), the license may
22 not be mortgaged or pledged as security and may not be
23 transferred to another person except for a transfer by
24 inheritance upon the death of the licensee. ~~A license~~
25 ~~transferred between quota areas under this section may be~~

~~held only by natural persons for 5 years following the transfer. For the purpose of this section, natural persons shall not include limited partnerships or other business entities of any kind in which each natural person is not a full participant in the ownership and operation of the business authorized by the licensee.~~

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

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

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

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of \$40 must be filed with the department at least 10 days prior to the event and shall

describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

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

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

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

(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid

1 liens, in which event the name of the mortgagee, upon
2 application to and approval of the department, must be
3 endorsed on the license.

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

-End-

Approved by Committee
on Business and Industry

1 Sen. Smith BILL NO. 144
2 INTRODUCED BY Timothy J. Doe
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

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15 the person to whom issued, the location, by street and
16 number or other appropriate specific description of location
17 if no street address exists, of the premises where the
18 business is to be carried on under said license, and such
19 other information as the department shall deem necessary.
20 If the licensee is a partnership or if more than one person
21 has any interest in the business operated under the license,
22 the names of all persons in the partnership or interested in
23 the business must appear on the license. Every license must
24 be posted in a conspicuous place on the premises wherein the
25 business authorized under the license is conducted, and such

1 license shall be exhibited upon request to any authorized
2 representative of the department or to any peace officer of
3 the state of Montana.

4 (2) Any license issued under the provisions of this
5 part shall be considered a privilege personal to the
6 licensee named in the license and shall be good until the
7 expiration of the license unless sooner revoked or
8 suspended.

9 (3) A license may be transferred to the executor or
10 administrator of the estate of any deceased licensee when
11 such estate consists in whole or in part of the business of
12 selling liquor under a license, and in such event the
13 license may descend or be disposed of with the business to
14 which it is applicable under appropriate probate
15 proceedings.

16 (4) In the event of a major loss or damage to licensed
17 premises by unforeseen natural causes or in case of
18 expiration of lease of the licensed premises or in the event
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20 rented licensed premises) or in case of proposed removal of
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23 apply to the department for a transfer of the license to
24 different premises. The department may in its discretion
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23 (6) (a) Except as provided in subsection (6)(b), a
 24 license may be transferred to a new ownership and to a
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1 issued only when the following criteria are met:

2 (i) the total number of all-beverages licenses in the
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 4 least 25% in the most recent census prescribed in 16-4-502;

5 (ii) the total number of all-beverages licenses in the
 6 quota area to which the license would be transferred did not
 7 exceed that area's quota by more than 33% in the most recent
 8 census prescribed in 16-4-502; and

9 (iii) the department finds, after a public hearing,
 10 that the public convenience and necessity would be served by
 11 such a transfer.

12 (b) A license within an incorporated quota area may be
 13 transferred to a new ownership and to a new unincorporated
 14 location within the same county on application to and with
 15 consent of the department when the quota of the
 16 all-beverages licenses in the original quota area exceeds
 17 the quota for that area by at least 25% in the most recent
 18 census and will not fall below that level because of the
 19 transfer.

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

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

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

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

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of \$40 must be filed with the department at least 10 days prior to the event and shall

describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

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

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

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

(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid

1 liens, in which event the name of the mortgagee, upon
2 application to and approval of the department, must be
3 endorsed on the license.

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

-End-

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2 INTRODUCED BY *Turner*
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

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

(6) (a) Except as provided in subsection (6)(b), a license may be transferred to a new ownership and to a location outside the quota area for which it was originally

issued only when the following criteria are met:

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(b) A license within an incorporated quota area may be transferred to a new ownership and to a new unincorporated location within the same county on application to and with consent of the department when the quota of the all-beverages licenses in the original quota area exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(c) For 5 years after the transfer of a license between quota areas under subsection (6)(a), the license may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee. ~~A license transferred between quota areas under this section may be~~

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

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of \$40 must be filed with the department at least 10 days prior to the event and shall

describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

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

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(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid

1 liens, in which event the name of the mortgagee, upon
2 application to and approval of the department, must be
3 endorsed on the license.

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5 of each year."

-End-

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INTRODUCED BY TURNAGE, TOME

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