SENATE BILL NO. 298

INTRODUCED BY TOWE, TURNAGE

IN THE SENATE

January 27, 1983

February 14, 1983

Pebruary 15, 1983

February 16, 1983

February 18, 1983

February 19, 1983

March 1, 1983

March 16, 1983

March 21, 1983

March 22, 1983

IN THE SENATE

IN THE HOUSE

March 23, 1983

Returned to Senate. Sent to enrolling.

Introduced and referred to Committee on Public Health.

Committee recommend bill do

Bill printed and placed on

Second reading, do pass.

Correctly engrossed.

Third reading, passed. Ayes, 46; Noes, 1. Transmitted to House.

Introduced and referred to

Committee recommend bill be

Second reading, concurred in.

Third reading, concurred in.

concurred in. Report

Committee on Business and

Welfare, and Safety.

pass. Report adopted.

members' desks.

Industry.

adopted.

Reported correctly enrolled.

SENATE BILL NO. 298

INTRODUCED BY TOWE, TURNAGE

IN THE SENATE

January 27, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 14, 1983	Committee recommend bill do pass. Report adopted.
February 15, 1983	Bill printed and placed on members' desks.
February 16, 1983	Second reading, do pass.
February 18, 1983	Correctly engrossed.
February 19, 1983	Third reading, passed. Ayes, 45; Noes, 1. Transmitted to House.
IN THE HO	USE
March 1, 1983	Introduced and referred to Committee on Business and Industry.
March 16, 1983	Committee recommend bill be concurred in. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.
IN THE SE	NATE
March 23, 1983	Returned to Senate. Sent to enrolling.

March	25, 1983		Correctly enrolled.
			Signed by President.
March	26, 1983		Signed by Speaker.
March	28, 1983		Delivered to Governor.
April	4, 1983		Returned from Governor with recommended amendments.
April	6, 1983		Second reading, Governor's amendments concurred in.
April	7, 1983		Third reading, Governor's amendments concurred in. Ayes, 50; Noes, 0.
		IN THE	HOUSE
April	7, 1983		Governor's amondments transmitted to House.
April	9, 1983		Second reading, Governor's amendments concurred in.
April	11, 1983		Third reading, Governor's amendments concurred in.
		IN THE	SENATE
April	12, 1983		Returned to Senate. Sent to enrolling.

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Reported correctly enrolled.

LC 2136/01

INTRODUCED BY CAR Turnage 1 2 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF A 5 LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDING 6 7 SECTIONS 16-1-106, 16-4-105, 16-4-201, AND 16-4-501, HCA; AND REPEALING SECTIONS 16-4-409 AND 16-4-410, MCA.* 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 16-1-106, MCA, is amended to read: 11 *16-1-106. Definitions. As used in this code, the 12 following definitions apply: 13 (1) "Agency agreement" means an agreement between the 14 department and a person appointed to sell liquor as a 15 16 commission merchant rather than as an employee. (2) "Alcohol" means ethyl alcohol, also called 17 ethanol, or the hydrated oxide of ethyl. 18 (3) "Alcoholic beverage" means a compound produced and 19 sold for human consumption as a drink that contains more 20 21 than .5% of alcohol by volume. 22 (4) "Beer" means a mait beverage containing not more 23 than 7% of alcohol by weight. 24 (5) "Brewer" means a person who produces malt 25 beverages.

1 (6) "Department" means the department of revenue. 2 (7) "Immediate family" means a spouse, dependent 3 children, or dependent parents. (8) "Industrial use" means a use described as 4 industrial use by the federal Alcohol Administration Act and 5 the federal rules and regulations of 27 CFR. 6 (9) "Liquor" means an alcoholic beverage except beer 7 8 and table wine. 9 (10) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a 10 11 combination of both, in potable brewing water, of malted 12 barley with or without hops or their parts or their products 13 and with or without other malted cereals and with or without 14 the addition of unmalted or prepared cereals, other 15 carbohydrates, or products prepared therefrom and with or 16 without other wholesome products suitable for human food 17 consumption. 18 (11) "Package" means a container or receptable used for 19 holding an alcoholic beverage. 20 (12) "Posted price" means the retail price of liquor as 21 fixed and determined by the department and in addition 22 thereto an excise and license tax as provided in this code. 23 (13) "Proof gallon" means a U.S. gallon of liquor at 60 24 degrees on the Fahrenheit scale that contains 50% of alcohol 25 by volume.

-z- INTRODUCED BILL

1 (14) "Public place" means a place, building, or 2 conveyance to which the public has or may be permitted to 3 have access and any place of public resort.

4 (15)-*Public--road--or--highway*--means--the-same-as-in
5 15-70-301(5)*

6 (16)(15) "Rules" means rules published by the 7 department pursuant to this code.

8 (17)(16) "State liquor facility" means a facility owned
 9 or under control of the department for the purpose of
 10 receiving, storing, transporting, or selling alcoholic
 11 beverages.

12 (18)(17) "State liquor store" means a retail store 13 operated by the department in accordance with this code for 14 the purpose of selling liquor.

15 (19)(18) "Storage depot" means a building or structure 16 owned or operated by a brewer at any point in the state of 17 Montana off and away from the premises of a brewery, and 18 which structure is equipped with refrigeration or cooling 19 apparatus for the storage of beer and from which a brewer 20 may sell or distribute beer as permitted by this code.

21 (20)(12) "Table wine" means wine as defined below which 22 contains not more than 14% alcohol by volume.

23 (21)(20) "Warehouse" means a building or structure
 24 owned or operated by a licensed wholesaler for the
 25 receiving, storage, and distribution of beer as permitted by

1 this code.

2 (22)(21) "Wine" means an alcoholic beverage made from 3 the normal alcoholic fermentation of the juice of sound, 4 ripe fruit or other agricultural products without addition 5 or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains not 6 less than 7% or more than 24% of alcohol by volume. Wine 7 may be ameliorated to correct natural deficiencies, 8 9 sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the 10 Other alcoholic beverages not defined as above 11 industry. 12 but made in the manner of wine and labeled and sold as wine 13 in accordance with federal regulations are also wine."

Section 2. Section 16-4-105, MCA, is amended to read: 14 15 #16-4-105. Limit on retail beer licenses -- wine 16 license amendments -- off-premises consumption. (1) Except 17 as otherwise provided by law, a license to sell beer at 18 retail or beer and wine at retail; in accordance with the 19 provisions of this code and the rules of the department, may be issued to any person, firm, or corporation who is 20 21 approved by the department as a fit and proper person, firm, 22 or corporation to sell beer, except that:

23 (a) the number of retail beer licenses that the 24 department may issue for premises situated within 25 incorporated cities and incorporated towns and within a

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distance of 5 miles from the corporate limits of such cities
 and towns shall be determined on the basis of population
 prescribed in 16-4-502 as follows:

. .

(i) in incorporated towns of 500 inhabitants or less
and within a distance of 5 miles from the corporate limits
of such towns, not more than one retail beer license, which
may not be used in conjunction with a retail all-beverages
license;

9 (ii) in incorporated cities or incorporated towns of 10 more than 500 inhabitants and not over 2,000 inhabitants and 11 within a distance of 5 miles from the corporate limits of 12 such cities or towns, one beer license for each 500 13 inhabitants, which may not be used in conjunction with 14 retail all-beverages licenses;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities, two additional retail beer licenses for the first 2,000 inhabitants or major fraction thereof and one additional retail beer license for each additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(b) the number of the inhabitants in such cities and
towns, exclusive of the number of inhabitants residing
within a distance of 5 miles from the corporate limits
thereof, shall govern the number of retail beer licenses

that may be issued for use within such cities and towns and 1 2 within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are 3 4 situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for 5 6 use in both of such municipalities and within a distance of 7 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both 8 9 of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate 10 11 limits of any incorporated city or incorporated town shall 12 be measured over-the-shortest-public-road-or--highway in a 13 straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of 14 15 such city or town.

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

20 (d) such limitations do not prevent the issuance of a 21 nontransferable and nonassignable retail beer license to a 22 post of a nationally chartered veterans[®] organization or a 23 lodge of a recognized national fraternal organization if 24 such veterans[®] or fraternal organization has been in 25 existence for a period of 5 years or more prior to January

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1 1, 1949;

2 (e) the number of retail beer licenses that the 3 department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of 4 5 the area within a distance of 5 miles from the corporate limits thereof or for use at premises situated within any 6 unincorporated town shall be as determined by the department 7 in the exercise of its sound discretion, except that no 8 9 retail beer license may be issued for any premises so situated unless the department determines that the issuance 10 11 of such license is required by public convenience and necessity. 12

(2) A person holding a license to sell beer for 13 consumption on the premises at retail may apply to the 14 department for an amendment to the license permitting the 15 16 holder to sell wine as well as beer. The division may issue 17 such amendment if it finds, on a satisfactory showing by the 18 applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or 19 prepared-food business. A person holding a beer-and-wine 20 license may sell wine for consumption on or off the 21 22 premises. Nonretention of the beer license, for whatever reason, shall mean automatic loss of the wine amendment 23 24 license.

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(3) A retail license to sell beer or table wine, or

both, in the original packages for off-premises consumption 1 2 only may be issued to any person, firm, or corporation who 3 is approved by the department as a fit and proper person. firm, or corporation to sell beer or table wine, or both, 4 5 and whose premises proposed for licensing are operated as a 6 bona fide grocery store or a drugstore licensed as a pharmacy. The number of such licenses that the department 7 may issue is not limited by the provisions of subsection (1) 8 9 of this section but shall be determined by the department in 10 the exercise of its sound discretion, and the department may 11 in the exercise of its sound discretion grant or deny any 12 application for any such license or suspend or revoke any 13 such license for cause."

14 Section 3. Section 16-4-201, MCA, is amended to read: 15 *16-4-201. All-beverages license guota. (1) Except as 16 otherwise provided by law, a license to sell liquor, beer, 17 and wine at retail (an all-beverages license) in accordance 18 with the provisions of this code and the rules of the 19 department may be issued to any person who is approved by the department as a fit and proper person to sell such 20 21 beverages, except that the number of all-beverages licenses 22 that the department may issue for premises situated within incorporated cities and incorporated towns and within a 23 distance of 5 miles from the corporate limits of such cities 24 25 and towns shall be determined on the basis of population

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1 prescribed in 16-4-502 as follows:

2 (a) in incorporated towns of 500 inhabitants or less
3 and within a distance of 5 miles from the corporate limits
4 of such towns, not more than two retail licenses;

5 (b) in incorporated cities or incorporated towns of 6 more than 500 inhabitants and not over 3,000 inhabitants and 7 within a distance of 5 miles from the corporate limits of 8 such cities and towns, three retail licenses for the first 9 1,000 inhabitants and one retail license for each additional 10 1,000 inhabitants;

11 (c) in incorporated cities of over 3,000 inhabitants 12 and within a distance of 5 miles from the corporate limits 13 thereof, five retail licenses for the first 3,000 14 inhabitants and one retail license for each additional 1,500 15 inhabitants.

(2) The number of the inhabitants in such cities and 16 towns, exclusive of the number of inhabitants residing 17 within a distance of 5 miles from the corporate limits 18 thereof, shall govern the number of retail licenses that may 19 20 be issued for use within such cities and towns and within a 21 distance of 5 miles from the corporate limits thereof. If 22 two or more incorporated municipalities are situated within 23 a distance of 5 miles from each other, the total number of 24 retail licenses that may be issued for use in both of such 25 municipalities and within a distance of 5 miles from their

1 respective corporate limits shall be determined on the basis Z of the combined populations of both of such municipalities 3 and may not exceed the foregoing limitations. The distance of 5 miles from the corporate limits of any incorporated 4 5 city or incorporated town shall be measured over-the shortest-public-road-or-highway in a straight line from the 6 7 nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. 8

9 (3) Retail all-beverages licenses of issue on March 7,
10 1947, and which are in excess of the foregoing limitations
11 shall be renewable, but no new licenses may be issued in
12 violation of such limitations.

13 (4) Such limitations do not prevent the issuance of a 14 nontransferable and nonassignable (as to ownership only) 15 retail license to any post of a nationally chartered 16 veterans' organization or any lodge of a recognized national 17 fraternal organization if such veterans' or fraternal 18 organization has been in existence for a period of 5 years 19 or more prior to January 1, 1949.

20 (5) The number of retail all-beverages licenses that 21 the department may issue for use at premises situated 22 outside of any incorporated city or incorporated town and 23 outside of the area within a distance of 5 miles from the 24 corporate limits thereof may not be more than one license 25 for each 750 population of the county after excluding the

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population of incorporated cities and incorporated towns in 1 2 such county." 3 Section 4. Section 16-4-501, MCA, is amended to read: 4 "16-4-501. License and permit fees. (1) Each beer 5 licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, 6 shall pay an annual license fee as follows: 7 (a) each brewer, wherever located, whose product is 8 9 sold or offered for sale within the state, \$500; for each 10 storage depot; \$400; (b) each beer wholesaler, \$400; each table wine 11 12 distributor, \$400; (c) each beer retailer, \$200; with a wine license 13 amendment, an additional \$200; 14 (d) for a license to sell beer at retail for 15 off-premises consumption only, the same as a retail beer 16 license: for a license to sell table wine at retail for 17 off-premises consumption only, either alone or in 18 19 conjunction with beer, \$200; (e) any unit of a nationally chartered veterans* 20 21 organization, \$50. 22 (2) The permit fee under 16-4-301(1) is computed at 23 the rate of \$15 a day for each day beer and table wine are 24 sold at those events lasting 2 or more days but in no case

25 be less than \$30.

1 (3) The permit fee under 16-4-301(2) is \$10 for the 2 sale of beer and table wine only or \$20 for the sale of all 3 alcoholic beverages.

4 (4) Passenger carrier licenses shall be issued upon
5 payment by the applicant of an annual license fee in the sum
6 of \$300.

7 (5) The annual license fee for a license to sell wine
8 on the premises, when issued as an amendment to a beer-only
9 license, is \$200.

10 (6) The annual fee for resort retail liquor licenses
11 within a given resort area shall be \$2,000 for each license.
12 (7) Each licensee licensed under the quotas of
13 16-4-201 shall pay an annual license fee as follows:
14 (a) except as hereinafter provided, for each license

(a) except as hereinafter provided, for each license
outside of incorporated cities and incorporated towns or in
incorporated cities and incorporated towns with a population
of less than 2,000, \$250 for a unit of a nationally
chartered veterans* organization and \$400 for all other
licensees;

(b) except as hereinafter provided, for each license
in incorporated cities with a population of more than 2,000
and less than 5,000 or within a distance of 5 miles thereof,
measured over-the-shortest-public-road-or-highway in a
straight line from the nearest entrance of the premises to
be licensed to the nearest boundary of such city, \$350 for a

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unit of a nationally chartered veterans* organization and
 \$500 for all other licensees;

3 (c) except as hereinafter providedy for each license 4 in incorporated cities with a population of more than 5,000 5 and less than 10,000 or within a distance of 5 miles 6 thereof, measured over-the-shortest-public-road-or-highway 7 in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$500 8 9 for a unit of a nationally chartered veterans, organization 10 and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured over-the-shortest-public-rond-or-highway in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

18 (e) the distance of 5 miles from the corporate limits 19 of any incorporated cities and incorporated towns is 20 measured over-the-shortest--public--road--or--highway in_a 21 straight line from the nearest entrance of the premises to 22 be licensed to the nearest boundary of such city or town; 23 and where the premises of the applicant to be licensed are 24 situated within 5 miles of the corporate boundaries or two 25 more incorporated cities or incorporated towns of or

1 different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and 2 3 shall be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated 4 5 town or incorporated city and any portion of the 6 incorporated town or incorporated city is without a 5-mile 7 limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and shall be 8 paid by the applicant. 9

10 (f) an applicant for the issuance of an original 11 license to be located in areas described in subsection (d) 12 of this subsection shall pay a one-time original license fee 13 of \$20,000 for any such license issued. The one-time license 14 fee of \$20,000 shall not apply to any transfer or renewal of 15 a license duly issued prior to July 1, 1974. All licenses, 16 however, are subject to the annual renewal fee.

17 (8) The fee for one all-beverage license to a public18 airport shall be \$800. This license is nontransferable.

19 (9) The license fees herein provided for are exclusive
20 of and in addition to other license fees chargeable in
21 Montana for the sale of alcoholic beverages."

22 Section 5. Repealer. Sections 16-4-409 and 16-4-410.
23 MCA, are repealed.

24 <u>NEW SECTION</u>. Section 6. Existing licenses not
 25 affected. This act does not affect a license issued prior to

1 October 1, 1983.

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Approved by Committee on Public Health, Welfare & Safety

enter BILL NO. 298 1 Turnoge INTRODUCED BY 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE 5 DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF A 6 LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDING 7 SECTIONS 16-1-106, 16-4-105, 16-4-201, AND 16-4-501, MCA; 8 AND REPEALING SECTIONS 16-4-409 AND 16-4-410, MCA."

9

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

Section 1. Section 16-1-106, MCA, is amended to read:
 *16-1-106. Definitions. As used in this code, the
 following definitions apply:

(1) "Agency agreement" means an agreement between the
 department and a person appointed to sell liquor as a
 commission merchant rather than as an employee.

17 (2) "Alcohol" means ethyl alcohol, also called
18 ethanol, or the hydrated oxide of ethyl.

(3) "Alcoholic beverage" means a compound produced and
 sold for human consumption as a drink that contains more
 than .5% of alcohol by volume.

(4) "Beer" means a malt beverage containing not more
than 7% of alcohol by weight.

24 (5) "Brewer" means a person who produces malt
 25 beverages.

1 (6) "Department" means the department of revenue. 2 (7) "Immediate family" means a spouser dependent 3 children, or dependent parents. (8) "Industrial use" Beans a use described as 4 industrial use by the federal Alcohol Administration Act and 5 the federal rules and regulations of 27 CFR. 6 7 (9) "Liquor" means an alcoholic beverage except beer 8 and table wine. (10) "Malt beverage" means an alcoholic beverage made 9 by the fermentation of an infusion or decoction, or a 10 11 combination of both, in potable brewing water, of malted 12 barley with or without hops or their parts or their products 13 and with or without other malted cereals and with or without the addition of unmalted or prepared cereals. 14 other 15 carbohydrates, or products prepared therefrom and with or 16 without other wholesome products suitable for human food 17 consumption. 18 (11) "Package" means a container or receptacle used for 19 holding an alcoholic beverage. (12) "Posted price" means the retail price of liquor as 20 21 fixed and determined by the department and in addition 22 thereto an excise and license tax as provided in this code. (13) "Proof gallon" means a U.S. gallon of liquor at 60 23 degrees on the Fahrenheit scale that contains 50% of alcohol 24

by volume.

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--- SECOND READING

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(14) "Public place" means a place, building, or
 conveyance to which the public has or may be permitted to
 have access and any place of public resort.

4 (15)-*Public--road-or--highway*--means--the-same-as-in 5 15-70-301(5)*

6 (16)(15) "Rules" means rules published by the
7 department pursuant to this code.

8 (17)(16) "State liquor facility" means a facility owned 9 or under control of the department for the purpose of 10 receiving, storing, transporting, or selling alcoholic 11 beverages.

12 (18)(17) "State liquor store" means a retail store 13 operated by the department in accordance with this code for 14 the purpose of selling liquor.

15 (19)(18) "Storage depot" means a building or structure 16 owned or operated by a brewer at any point in the state of 17 Montana off and away from the premises of a brewery, and 18 which structure is equipped with refrigeration or cooling 19 apparatus for the storage of beer and from which a brewer 20 may sell or distribute beer as permitted by this code.

21 (20)(19) "Table wine" means wine as defined below which
 22 contains not more than 14% alcohol by volume.

23 (21)(20) "Warehouse" means a building or structure
 24 owned or operated by a licensed wholesaler for the
 25 receiving, storage, and distribution of beer as permitted by

1 this code.

14

+22+(21) "Wine" means an alcoholic beverage made from 2 3 the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition 4 or abstraction, except as may occur in the usual cellar 5 treatment of clarifying and aging, and that contains not 6 less than 7% or more than 24% of alcohol by volume. Wine 7 may be ameliorated to correct natural deficiencies, 8 9 sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the 10 industry. Other alcoholic beverages not defined as above 11 12 but made in the manner of wine and labeled and sold as wine 13 in accordance with federal regulations are also wine."

15 #16-4-105. Limit on retail beer licenses -- wine 16 license amendments -- off-premises consumption. (1) Except 17 as otherwise provided by law, a license to sell beer at 18 retail or beer and wine at retail, in accordance with the 19 provisions of this code and the rules of the department, may be issued to any person, firm, or corporation who is 20 21 approved by the department as a fit and proper person, firm, 22 or corporation to sell beer, except that:

Section 2. Section 16-4-105, MCA, is amended to read:

(a) the number of retail beer licenses that the
 department may issue for premises situated within
 incorporated cities and incorporated towns and within a

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distance of 5 miles from the corporate limits of such cities
 and towns shall be determined on the basis of population
 prescribed in 16-4-502 as follows:

4 (i) in incorporated towns of 500 inhabitants or less 5 and within a distance of 5 miles from the corporate limits 6 of such towns, not more than one retail beer license, which 7 may not be used in conjunction with a retail all-beverages 8 license;

9 (ii) in incorporated cities or incorporated towns of 10 more than 500 inhabitants and not over 2,000 inhabitants and 11 within a distance of 5 miles from the corporate limits of 12 such cities or towns, one beer license for each 500 13 inhabitants, which may not be used in conjunction with 14 retail all-beverages licenses;

15 (iii) in incorporated cities of over 2,000 inhabitants 16 and within a distance of 5 miles from the corporate limits 17 of such cities, two additional retail beer licenses for the 18 first 2,000 inhabitants or major fraction thereof and one 19 additional retail beer license for each additional 2,000 20 inhabitants, which may not be used in conjunction with 21 retail all-beverages licenses;

(b) the number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail beer licenses

1 that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits 2 thereof. If two or more incorporated municipalities are 3 situated within a distance of 5 miles from each other, the 4 total number of retail beer licenses that may be issued for 5 use in both of such municipalities and within a distance of 6 7 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both 8 of such municipalities and may not exceed the foregoing 9 limitations. The distance of 5 miles from the corporate 10 limits of any incorporated city or incorporated town shall 11 12 be measured over-the-shortest-public-road-or--highway <u>in_.a</u> 13 straight line from the nearest entrance of the premises 14 proposed for licensing to the nearest corporate boundary of 15 such city or town.

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

(d) such limitations do not prevent the issuance of a
nontransferable and nonassignable retail beer license to a
post of a nationally chartered veterans* organization or a
lodge of a recognized national fraternal organization if
such veterans* or fraternal organization has been in
existence for a period of 5 years or more prior to January

1 1, 1949;

(e) the number of retail beer licenses that the 2 department may issue for use at premises situated outside of 3 any incorporated city or incorporated town and outside of 4 the area within a distance of 5 miles from the corporate 5 limits thereof or for use at premises situated within any 6 7 unincorporated town shall be as determined by the department in the exercise of its sound discretion, except that no я retail beer license may be issued for any premises so 9 situated unless the department determines that the issuance 10 11 of such license is required by public convenience and 12 necessity.

(2) A person holding a license to sell beer for 13 consumption on the premises at retail may apply to the 14 department for an amendment to the license permitting the 15 16 holder to sell wine as well as beer. The division may issue such amendment if it finds, on a satisfactory showing by the 17 18 applicant, that the sale of wine for consumption on the 19 premises would be supplementary to a restaurant or 20 prepared-food business. A person holding a beer-and-wine 21 license may sell wine for consumption on or off the 22 premises. Nonretention of the beer license, for whatever reasony shall mean automatic loss of the wine amendment 23 24 license.

both, in the original packages for off-premises consumption 1 only may be issued to any person, firm, or corporation who 2 3 is approved by the department as a fit and proper person+ firm, or corporation to sell beer or table wine, or both, 4 and whose premises proposed for licensing are operated as a 5 bona fide grocery store or a drugstore licensed as a 6 pharmacy. The number of such licenses that the department 7 may issue is not limited by the provisions of subsection (1) 8 9 of this section but shall be determined by the department in the exercise of its sound discretion, and the department may 10 in the exercise of its sound discretion grant or deny any 11 12 application for any such license or suspend or revoke any 13 such license for cause."

14 Section 3. Section 16-4-201, MCA, is amended to read: 15 "16-4-201. All-beverages license guota. (1) Except as otherwise provided by law, a license to sell liquor, beer, 16 17 and wine at retail (an all-beverages license) in accordance 18 with the provisions of this code and the rules of the 19 department may be issued to any person who is approved by the department as a fit and proper person to sell such 20 21 beverages, except that the number of all-beverages licenses 22 that the department may issue for premises situated within 23 incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of such cities 24 and towns shall be determined on the basis of population 25

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(3) A retail license to sell beer or table wine, or

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1 prescribed in 16-4-502 as follows:

2 (a) in incorporated towns of 500 inhabitants or less
3 and within a distance of 5 miles from the corporate limits
4 of such towns, not more than two retail licenses;

5 (b) in incorporated cities or incorporated towns of 6 more than 500 inhabitants and not over 3,000 inhabitants and 7 within a distance of 5 miles from the corporate limits of 8 such cities and towns, three retail licenses for the first 9 1,000 inhabitants and one retail license for each additional 10 1,000 inhabitants;

11 (c) in incorporated cities of over 3,000 inhabitants 12 and within a distance of 5 miles from the corporate limits 13 thereof, five retail licenses for the first 3,000 14 inhabitants and one retail license for each additional 1,500 15 inhabitants.

(2) The number of the inhabitants in such cities and 16 towns, exclusive of the number of inhabitants residing 17 within a distance of 5 miles from the corporate limits 18 thereof, shall govern the number of retail licenses that may 19 be issued for use within such cities and towns and within a 20 distance of 5 miles from the corporate limits thereof. If 21 two or more incorporated municipalities are situated within 22 a distance of 5 miles from each other, the total number of 23 retail licenses that may be issued for use in both of such 24 25 municipalities and within a distance of 5 miles from their

1 respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities 2 3 and may not exceed the foregoing limitations. The distance 4 of 5 miles from the corporate limits of any incorporated 5 city or incorporated town shall be measured over-the shortest-public-rood-or-highway in a straight line from the 6 7 nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. 8 9 (3) Retail all-beverages licenses of issue on March 7, 1947, and which are in excess of the foregoing limitations 10 11 shall be renewable, but no new licenses may be issued in 12 violation of such limitations.

13 (4) Such limitations do not prevent the issuance of a 14 nontransferable and nonassignable (as to ownership only) 15 retail license to any post of a nationally chartered 16 veterans' organization or any lodge of a recognized national 17 fraternal organization if such veterans' or fraternal 18 organization has been in existence for a period of 5 years 19 or more prior to January 1, 1949.

20 (5) The number of retail all-beverages licenses that 21 the department may issue for use at premises situated 22 outside of any incorporated city or incorporated town and 23 outside of the area within a distance of 5 miles from the 24 corporate limits thereof may not be more than one license 25 for each 750 population of the county after excluding the

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1	population of incorporated cities and incorporated towns in
z	such county."
3	Section 4. Section 16-4-501, MCA, is amended to read:
4	"16-4-501. License and permit fees. (1) Each beer
5	licensee licensed to sell either beer or table wine only, or
6	both beer and table wine, under the provisions of this code,
7	shall pay an annual license fee as follows:
8	(a) each brewer, wherever located, whose product is
9	sold or offered for sale within the state, \$500; for each
10	storage depot, \$400;
11	(b) each beer wholesaler, \$400; each table wine
12	distributor, \$400;
13	(c) each beer retailer, \$200; with a wine license
14	amendment, an additional \$200;
15	(d) for a license to sell beer at retail for
16	off-premises consumption only, the same as a retail beer
17	license; for a license to sell table wine at retail for
18	off-premises consumption only, either alone or in
19	conjunction with beer, \$200;
20	(e) any unit of a nationally chartered veterans!
21	organization, \$50.
22	(2) The permit fee under 16-4-301(1) is computed at
23	the rate of \$15 a day for each day beer and table wine are
24	sold at those events lasting 2 or more days but in no case
25	be less than \$30.
	-11-

sale of beer and table wine only or \$20 for the sale of all Z 3 alcoholic beverages. (4) Passenger carrier licenses shall be issued upon 4 payment by the applicant of an annual license fee in the sum 5 of \$300. 6 (5) The annual license fee for a license to sell wine 7 on the premises, when issued as an amendment to a beer-only 8 license, is \$200. 9

(3) The permit fee under 16-4-301(2) is \$10 for the

10 (6) The annual fee for resort retail liquor licenses
11 within a given resort area shall be \$2,000 for each license.
12 (7) Each licensee licensed under the quotas of
13 16-4-201 shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license
outside of incorporated cities and incorporated towns or in
incorporated cities and incorporated towns with a population
of less than 2,000, \$250 for a unit of a nationally
chartered veterans* organization and \$400 for all other
licensees;

(b) except as hereinafter provided, for each license
in incorporated cities with a population of more than 2,000
and less than 5,000 or within a distance of 5 miles thereof,
measured over-the--shortest--public--road or highway in a
straight line from the nearest entrance of the premises to
be licensed to the nearest boundary of such city, \$350 for a

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unit of a nationally chartered veterans* organization and
 \$500 for all other licensees;

(c) except as hereinafter provided, for each license 3 4 in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles 5 thereof, measured over-the-shortest-public-road-or-highway 6 7 in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$500 8 9 for a unit of a nationally chartered veterans* organization 10 and \$650 for all other licensees;

11 (d) for each license in incorporated cities with a 12 population of 10,000 or more or within a distance of 5 miles 13 thereof, measured over-the-shortest-public-room-or-highway 14 <u>in a straight line</u> from the nearest entrance of the premises 15 to be licensed to the nearest boundary of such city, \$650 16 for a unit of a nationally chartered veterans⁶ organization 17 and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits 18 of any incorporated cities and incorporated towns is 19 measured over-the-shortest--public--road--or--highway in a 20 21 straight line from the nearest entrance of the premises to 22 be licensed to the nearest boundary of such city or town; 23 and where the premises of the applicant to be licensed are 24 situated within 5 miles of the corporate boundaries of two more incorporated cities or incorporated towns of 25 or

1 different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and 2 3 shall be paid by the applicant. When the premises of the 4 applicant to be licensed are situated within an incorporated 5 town or incorporated city and any portion of the 6 incorporated town or incorporated city is without a 5-mile 7 limit, the license fee chargeable by the smaller 8 incorporated town or incorporated city applies and shall be 9 paid by the applicant.

10 (f) an applicant for the issuance of an original 11 license to be located in areas described in subsection (d) 12 of this subsection shall pay a one-time original license fee 13 of \$20,000 for any such license issued. The one-time license 14 fee of \$20,000 shall not apply to any transfer or renewal of 15 a license duly issued prior to July 1, 1974. All licenses, 16 however, are subject to the annual renewal fee.

17 (8) The fee for one all-beverage license to a public18 airport shall be \$800. This license is nontransferable.

(9) The license fees herein provided for are exclusive
 of and in addition to other license fees chargeable in
 Hontana for the sale of alcoholic beverages."

22 Section 5. Repealer. Sections 16-4-409 and 16-4-410.

23 MCA, are repealed.

24 <u>NEW SECTION</u>. Section 6. Existing licenses not

25 affected. This act does not affect a license issued prior to

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-14-

1 October 1, 1983.

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– End–

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TH DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDIN SECTIONS 16-1-106, 16-4-105, 16-4-201, AND 16-4-501, MCA AND REPEALING SECTIONS 16-4-409 AND 16-4-410, MCA." DE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-1-106, MCA, is amended to read "16-1-106. Definitions. As used in this code, th following definitions apply: (1) "Agency agreement" means an agreement between th
A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TH DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDIN SECTIONS 16-1-106, 16-4-105, 16-4-201, AND 16-4-501, MCA AND REPEALING SECTIONS 16-4-409 AND 16-4-410, MCA." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-1-106, MCA, is amended to read "16-1-106. Definitions. As used in this code, th following definitions apply:
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*16-1-106. Definitions. As used in this code, th following definitions apply:
following definitions apply:
(1) "Agency agreement" means an agreement between th
department and a person appointed to sell liquor as
commission merchant rather than as an employee.
(2) "Alcohol" means ethyl alcohol, also calle
ethanol, or the hydrated oxide of ethyl.
(3) "Alcoholic beverage" means a compound produced an
sold for human consumption as a drink that contains mor
than .5% of alcohol by volume.
(4) "Beer" means a malt beverage containing not mor
than 7% of alcohol by weight.
(5) "Brewer" means a person who produces mail
beverages.
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(6) "Department" means the department of revenue.

2 (7) "Immediate family" means a spouse, dependent
 3 children, or dependent parents.

4 (8) "Industrial use" means a use described as
5 industrial use by the federal Alcohol Administration Act and
6 the federal rules and regulations of 27 CFR.

7 (9) "Liquor" means an alcoholic beverage except beer
8 and table wine.

9 (10) "Mait beverage" means an alcoholic beverage made 10 by the fermentation of an infusion or decoction, or a 11 combination of both, in potable brewing water, of malted 12 barley with or without hops or their parts or their products 13 and with or without other malted cereals and with or without 14 the addition of unmalted or prepared cereals, other 15 carbohydrates, or products prepared therefrom and with or 16 without other wholesome products suitable for human food 17 consumption.

18 (11) "Package" means a container or receptacle used for
19 holding an alcoholic beverage.

(12) "Posted price" means the retail price of liquor as
fixed and determined by the department and in addition
thereto an excise and license tax as provided in this code.
(13) "Proof gallon" means a U-S- gallon of liquor at 60
degrees on the Fahrenheit scale that contains 50% of alcohol
by volume.

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(14) "Public place" means a place, building, or
 conveyance to which the public has or may be permitted to
 have access and any place of public resort.

6 (16)(15) "Rules" means rules published by the
7 department pursuant to this code.

8 (17)(16) "State liquor facility" means a facility owned 9 or under control of the department for the purpose of 10 receiving, storing, transporting, or selling alcoholic 11 beverages.

12 (18)(17) "State liquor store" means a retail store 13 operated by the department in accordance with this code for 14 the purpose of selling liquor.

15 (19)(18) "Storage depot" means a building or structure 16 owned or operated by a brewer at any point in the state of 17 Montana off and away from the premises of a brewery, and 18 which structure is equipped with refrigeration or cooling 19 apparatus for the storage of beer and from which a brewer 20 may sell or distribute beer as permitted by this code.

21 (20)(12) "Table wine" means wine as defined below which
 22 contains not more than 14% alcohol by volume.

23 (21)(20) "Warehouse" means a building or structure
 24 owned or operated by a licensed wholesaler for the
 25 receiving, storage, and distribution of beer as permitted by

1 this code.

2 +22+(21) #Wine# means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, 3 ripe fruit or other agricultural products without addition 4 5 or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains not 6 7 less than 7% or more than 24% of alcohol by volume. Wine 8 may be ameliorated to correct natural deficiencies. sweetened, and fortified in accordance with applicable 9 federal regulations and the customs and practices of the 10 industry. Other alcoholic beverages not defined as above 11 but made in the manner of wine and labeled and sold as wine 12 13 in accordance with federal regulations are also wine."

Section 2. Section 16-4-105, MCA, is amended to read: 14 #16-4-105. Limit on retail beer licenses -- wine 15 license amendments -- off-premises consumption. (1) Except 16 as otherwise provided by law, a license to sell beer at 17 retail or beer and wine at retail, in accordance with the 18 provisions of this code and the rules of the department, may 19 20 be issued to any person, firm, or corporation who is 21 approved by the department as a fit and proper person, firm, 22 or corporation to sell beer, except that:

23 (a) the number of retail beer licenses that the 24 department may issue for premises situated within 25 incorporated cities and incorporated towns and within a

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distance of 5 miles from the corporate limits of such cities 1 and towns shall be determined on the basis of population prescribed in 16-4-502 as follows:

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(i) in incorporated towns of 500 inhabitants or less 4 and within a distance of 5 miles from the corporate limits 5 of such towns, not more than one retail beer license, which 6 may not be used in conjunction with a retail all-beverages 7 8 license;

(ii) in incorporated cities or incorporated towns of 9 more than 500 inhabitants and not over 2,000 inhabitants and 10 within a distance of 5 miles from the corporate limits of 11 such cities or towns, one beer license for each 500 12 inhabitants, which may not be used in conjunction with 13 retail all-beverages licenses; 14

(iii) in incorporated cities of over 2,000 inhabitants 15 and within a distance of 5 miles from the corporate limits 16 of such cities, two additional retail beer licenses for the 17 first 2,000 inhabitants or major fraction thereof and one 18 additional retail beer license for each additional 2,000 19 inhabitants, which may not be used in conjunction with 20 21 retail all-beverages licenses;

(b) the number of the inhabitants in such cities and 22 towns, exclusive of the number of inhabitants residing 23 within a distance of 5 miles from the corporate limits 24 thereof, shall govern the number of retail beer licenses 25

that may be issued for use within such cities and towns and 1 within a distance of 5 miles from the corporate limits 2 thereof. If two or more incorporated municipalities are 3 4 situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for 5 use in both of such municipalities and within a distance of 6 5 miles from their respective corporate limits shall be 7 determined on the basis of the combined populations of both 8 9 of such municipalities and may not exceed the foregoing 10 limitations. The distance of 5 miles from the corporate 11 limits of any incorporated city or incorporated town shall 12 be measured over-the-shortest-public-road-or--highway in_a straight line from the nearest entrance of the premises 13 14 proposed for licensing to the nearest corporate boundary of 15 such city or town.

(c) retail beer licenses of issue on March 7, 1947, 16 and which are in excess of the foregoing limitations shall 17 18 be renawable, but no new licenses may be issued in violation 19 of such limitations;

(d) such limitations do not prevent the issuance of a 20 nontransferable and nonassignable retail beer license to a 21 post of a nationally chartered veterans" organization or a 22 23 lodge of a recognized national fraternal organization if such veterans" or fraternal organization has been in 24 existence for a period of 5 years or more prior to January 25

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1 1, 1949;

(e) the number of retail beer licenses that the 2 3 department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of 4 the area within a distance of 5 miles from the corporate 5 limits thereof or for use at premises situated within any 6 unincorporated town shall be as determined by the department 7 in the exercise of its sound discretion, except that no 8 9 retail beer license may be issued for any premises so situated unless the department determines that the issuance 10 11 of such license is required by public convenience and necessity. 12

(2) A person holding a license to sell beer for 13 consumption on the premises at retail may apply to the 14 department for an amendment to the license permitting the 15 holder to sell wine as well as beer. The division may issue 16 such amendment if it finds, on a satisfactory showing by the 17 applicant, that the sale of wine for consumption on the 18 premises would be supplementary to a restaurant or 19 prepared-food business. A person holding a beer-and-wine 20 license may sell wine for consumption on or off the 21 premises. Nonretention of the beer license, for whatever 22 reason, shall mean automatic loss of the wine amendment 23 24 license.

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(3) A retail license to sell beer or table wine, or

both, in the original packages for off-premises consumption 1 only may be issued to any person, firm, or corporation who 2 is approved by the department as a fit and proper person. 3 4 firm, or corporation to sell beer or table wine, or both, 5 and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore licensed as a 6 pharmacy. The number of such licenses that the department 7 8 may issue is not limited by the provisions of subsection (1)9 of this section but shall be determined by the department in the exercise of its sound discretion, and the department may 10 11 in the exercise of its sound discretion grant or deny any 12 application for any such license or suspend or revoke any 13 such license for cause."

14 Section 3. Section 16-4-201, MCA, is amended to read: 15 *16-4-201. All-beverages license guota. (1) Except as 16 otherwise provided by law, a license to sell liquor, beer, 17 and wine at retail (an all-beverages license) in accordance 18 with the provisions of this code and the rules of the 19 department may be issued to any person who is approved by 20 the department as a fit and proper person to sell such 21 beverages, except that the number of all-beverages licenses 22 that the department may issue for premises situated within 23 incorporated cities and incorporated towns and within a 24 distance of 5 miles from the corporate limits of such cities 25 and towns shall be determined on the basis of population

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1 prescribed in 16-4-502 as follows:

2 (a) in incorporated towns of 500 inhabitants or less
3 and within a distance of 5 miles from the corporate limits
4 of such towns, not more than two retail licenses;

5 (b) in incorporated cities or incorporated towns of 6 more than 500 inhabitants and not over 3,000 inhabitants and 7 within a distance of 5 miles from the corporate limits of 8 such cities and towns, three retail licenses for the first 9 1,000 inhabitants and one retail license for each additional 10 1,000 inhabitants;

11 (c) in incorporated cities of over 3+000 inhabitants 12 and within a distance of 5 miles from the corporate limits 13 thereof, five retail licenses for the first 3+000 14 inhabitants and one retail license for each additional 1+500 15 inhabitants.

(2) The number of the inhabitants in such cities and 16 towns, exclusive of the number of inhabitants residing 17 within a distance of 5 miles from the corporate limits 18 19 thereof. shall govern the number of retail licenses that may 20 be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If 21 22 two or more incorporated municipalities are situated within 23 a distance of 5 miles from each other, the total number of 24 retail licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their 25

respective corporate limits shall be determined on the basis 1 of the combined populations of both of such municipalities 2 3 and may not exceed the foregoing limitations. The distance 4 of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured over--the 5 shortest-public-road-or-highway in a straight line from the 6 nearest entrance of the premises proposed for licensing to 7 the nearest corporate boundary of the city or town. 8

9 (3) Retail all-beverages licenses of issue on March 7,
10 1947, and which are in excess of the foregoing limitations
11 shall be renewable, but no new licenses may be issued in
12 violation of such limitations.

13 (4) Such limitations do not prevent the issuance of a 14 nontransferable and nonassignable (as to ownership only) 15 retail license to any post of a nationally chartered 16 veterans' organization or any lodge of a recognized national 17 fraternal organization if such veterans' or fraternal 18 organization has been in existence for a period of 5 years 19 or more prior to January 1, 1949.

20 (5) The number of retail all-beverages licenses that 21 the department may issue for use at premises situated 22 outside of any incorporated city or incorporated town and 23 outside of the area within a distance of 5 miles from the 24 corporate limits thereof may not be more than one license 25 for each 750 population of the county after excluding the

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1 population of incorporated cities and incorporated towns in 1 2 such county." 2 3 Section 4. Section 16-4-501, MCA, is amended to read: 3 "16-4-501. License and permit fees. (1) Each beer 4 4 licensee licensed to sell either beer or table wine only, or 5 5 6 both beer and table wine, under the provisions of this code, 6 7 shall pay an annual license fee as follows: 7 8 (a) each brewer, wherever located, whose product is 8 9 sold or offered for sale within the state, \$500; for each 9 10 storage depot, \$400; 10 (b) each beer wholesaler, \$400; each table 11 wine 11 distributor, \$400; 12 12 13 (c) each beer retailer, \$200; with a wine license 13 14 amendment, an additional \$200; 14 15 (d) for a license to sell beer at retail for 15 off-premises consumption only, the same as a retail beer 16 16 license; for a license to sell table wine at retail for 17 17 off-premises consumption only, either alone or in 18 18 19 19 conjunction with beer, \$200; 20 (e) any unit of a nationally chartered veterans* 20 21 organization, \$50. 21 22 22 (2) The permit fee under 16-4-301(1) is computed at 23 the rate of \$15 a day for each day beer and table wine are 23 sold at those events lasting 2 or more days but in no case 24 24 be less than \$30. 25 25

1(3) The permit fee under 16-4-301(2) is \$10 for the2sale of beer and table wine only or \$20 for the sale of all3alcoholic beverages.4(4) Passenger carrier licenses shall be issued upon5payment by the applicant of an annual license fee in the sum6of \$300.7(5) The annual license fee for a license to sell wine8on the premises, when issued as an amendment to a beer-only9license, is \$200.0(6) The annual fee for resort retail liquor licenses

11 within a given resort area shall be \$2,000 for each license.
12 (7) Each licensee licensed under the quotas of
13 16-4-201 shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license
outside of incorporated cities and Incorporated towns or in
incorporated cities and incorporated towns with a population
of less than 2,000, \$250 for a unit of a nationally
chartered veterans* organization and \$400 for all other
licensees;

(b) except as hereinafter provided, for each license
in incorporated cities with a population of more than 2,000
and less than 5,000 or within a distance of 5 miles thereof,
measured over-the-shortest-public-road-or-highway in a
straight line from the nearest entrance of the premises to
be licensed to the nearest boundary of such city, \$350 for a

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1 unit of a nationally chartered veterans' organization and \$500 for all other licensees; 2 (c) except as hereinafter provided, for each license з in incorporated cities with a population of more than 5,000 4 and less than 10.000 or within a distance of 5 miles 5 6 thereof. measured ever-the-shortest-public-rood-or-highway in a straight line from the nearest entrance of the premises 7 to be licensed to the nearest boundary of such city, \$500 8 9 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees; 15

11 (d) for each license in incorporated cities with a 12 population of 10,000 or more or within a distance of 5 miles 13 thereof, measured over-the-shortest-public-road-or-highway 14 <u>in a straight line</u> from the nearest entrance of the pramises 15 to be licensed to the nearest boundary of such city, \$650 16 for a unit of a nationally chartered veterans' organization 17 and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits 18 of any incorporated cities and incorporated towns is 19 20 measured over-the-shortest--public-road--or-highway in_a straight line from the nearest entrance of the premises to 21 22 be licensed to the nearest boundary of such city or town; and where the premises of the applicant to be licensed are 23 situated within 5 miles of the corporate boundaries or two 24 more incorporated cities or incorporated towns of 25 or

1 different populations, the license fee chargeable by the larger 'incorporated city or incorporated town applies and 2 shall be paid by the applicant. When the premises of the 3 4 applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the 5 6 incorporated town or incorporated city is without a 5-mile 7 limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and shall be я 9 paid by the applicant.

10 (f) an applicant for the issuance of an original 11 license to be located in areas described in subsection (d) 12 of this subsection shall pay a one-time original license fee 13 of \$20,000 for any such license issued. The one-time license 14 fee of \$20,000 shall not apply to any transfer or renewal of 15 a license duly issued prior to July 1, 1974. All licenses, 16 however, are subject to the annual renewal fee.

17 (8) The fee for one all-beverage license to a public
18 airport shall be \$800. This license is nontransferable.

19 (9) The license fees herein provided for are exclusive
20 of and in addition to other license fees chargeable in
21 Montana for the sale of alcoholic beverages."

22 Section 5. Repealer. Sections 16-4-409 and 16-4-410.
23 MCA, are repealed.

24NEW_SECTIONSection 6. Existinglicensesnot25affected. This act does not affect a license issued prior to

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-14-

1 October 1, 1983.

-End-

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GOVERNOR'S PROPOSED AMENDMENT TO SENATE BILL 298 REFERENCE COPY, AS FOLLOWS

Page 14, line 24.Strike:Section 6 in its entirety

, see

1 SENATE BILL NO. 298 1 (6) "Department" means the department of revenue. 2 INTRODUCED BY TOWE, TURNAGE 2 (7) "Immediate family" means a spouse, dependent 3 children, or dependent parents. 3 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE 4 (8) "Industrial use" means a use described as 4 DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF A 5 industrial use by the federal Alcohol Administration Act and 5 LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDING 6 the federal rules and regulations of 27 CFR. 6 SECTIONS 16-1-106, 16-4-105, 16-4-201, AND 16-4-501, MCA; 7 (9) "Liquor" means an alcoholic beverage except beer 7 AND REPEALING SECTIONS 16-4-409 AND 16-4-410, MCA.* R 3 and table wine. 9 9 (10) "Malt beverage" means an alcoholic beverage made BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 10 by the fermentation of an infusion or decoction, or a Section 1. Section 16-1-106, MCA, is amended to read: 11 11 combination of both, in potable brewing water, of malted "16-1-106. Definitions. As used in this code, the 12 12 barley with or without hops or their parts or their products 13 following definitions apply: 13 and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other 14 (1) "Agency agreement" means an agreement between the 14 15 carbohydrates, or products prepared therefrom and with or 15 department and a person appointed to sell liquor as a 16 commission merchant rather than as an employee. 16 without other wholesome products suitable for human food 17 [2] "Alcohol" means ethyl alcohol, also called 17 consumption. 18 18 ethanol, or the hydrated oxide of ethyl. (11) "Package" means a container or receptacle used for 19 holding an alcoholic beverage. 19 (3) "Alcoholic beverage" means a compound produced and (12) "Posted price" means the retail price of liquor as 20 20 sold for human consumption as a drink that contains more 21 fixed and determined by the department and in addition 21 than .5% of alcohol by volume. 22 thereto an excise and license tax as provided in this code. (4) "Beer" means a malt beverage containing not more 22 23 (13) "Proof gallon" means a U.S. gallon of liquor at 60 23 than 7% of alcohol by weight. 24 degrees on the Fahrenheit scale that contains 50% of alcohol (5) "Brewer" means a person who produces malt 24 25 by volume. 25 beverages.

> -2- SB 298 REFERENCE BILL

(14) "Public place" means a place, building, or
 conveyance to which the public has or may be permitted to
 have access and any place of public resort.

4 fift-**bblic--rood-or--highway*--means--the-same-as-in
5 i5-70-30it5ir

6 <u>fif6f(15)</u> "Rules" means rules published by the 7 department pursuant to this code.

8 (177)[16] "State liquor facility" means a facility owned
 9 or under control of the department for the purpose of
 10 receiving, storing, transporting, or selling alcoholic
 11 beverages.

12 (10)(17) "State liquor store" means a retail store operated by the department in accordance with this code for the purpose of selling liquor.

15 (197118) "Storage depot" means a building or structure 16 owned or operated by a brewer at any point in the state of 17 Montana off and away from the premises of a brewery, and 18 which structure is equipped with refrigeration or cooling 19 apparatus for the storage of beer and from which a brewer 20 may sell or distribute beer as permitted by this code.

21 <u>t20;(19)</u> "Table wine" means wine as defined below which 22 contains not more than 14% alcohol by volume.

t21+1201 "Narehouse" means a building or structure
 owned or operated by a licensed wholesaler for the
 receiving, storage, and distribution of beer as permitted by

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1 this code.

t22)[21] "Wine" means an alcoholic beverage made from 7 the normal alcoholic fermentation of the juice of sound, 3 4 ripe fruit or other agricultural products without addition 5 or abstraction, except as may occur in the usual cellar 6 treatment of clarifying and aging, and that contains not 7 less than 7% or more than 24% of alcohol by volume. Hine 9 may be ameliorated to correct natural deficiencies, 9 sweetened, and fortified in accordance with applicable 10 federal regulations and the customs and practices of the 11 industry. Other alcoholic beverages not defined as above 12 but made in the manner of wine and labeled and sold as wine 13 in accordance with federal regulations are also wine."

14 Section 2. Section 16-4-105, MCA, is amended to read: 15 *16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption. (1) Except 16 as otherwise provided by law, a license to sell beer at 17 retail or beer and wine at retail, in accordance with the 18 19 provisions of this code and the rules of the department, may 20 be issued to any person, firm, or corporation who is approved by the department as a fit and proper person, firm, 21 22 or corporation to sell beer, except that:

(a) the number of retail beer licenses that the
 department may issue for premises situated within
 incorporated citles and incorporated towns and within a

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distance of 5 miles from the corporate limits of such cities
 and towns shall be determined on the basis of population
 prescribed in 16-4-502 as follows:

4 (i) in incorporated towns of 500 inhabitants or less 5 and within a distance of 5 miles from the corporate limits 6 of such towns, not more than one retail beer license, which 7 may not be used in conjunction with a retail all-beverages 8 license;

9 (ii) in incorporated cities or incorporated towns of 10 more than 500 inhabitants and not over 2,000 inhabitants and 11 within a distance of 5 miles from the corporate limits of 12 such citles or towns, one beer license for each 500 13 inhabitants, which may not be used in conjunction with 14 retail all-beverages licenses;

15 (iii) in incorporated cities of over 2,000 inhabitants 16 and within a distance of 5 miles from the corporate limits 17 of such cities, two additional retail beer licenses for the 18 first 2,000 inhabitants or major fraction thereof and one 19 additional retail beer license for each additional 2,000 20 inhabitants, which may not be used in conjunction with 21 retail all-beverages licenses;

(b) the number of the inhabitants in such cities and
towns, exclusive of the number of inhabitants residing
within a distance of 5 miles from the corporate limits
thereof, shall govern the number of retail beer licenses

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1 that may be issued for use within such cities and towns and 2 within a distance of 5 miles from the corporate limits 3 thereof. If two or more incorporated municipalities are 4 situated within a distance of 5 miles from each other. the 5 total number of retail beer licenses that may be issued for 6 use in both of such municipalities and within a distance of 7 5 miles from their respective corporate limits shall be 8 determined on the basis of the combined populations of both 9 of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate 10 11 limits of any incorporated city or incorporated town shall 12 be measured over-the-shortest-public-road-or-highway in__a 13 straight_line from the nearest entrance of the premises 14 proposed for licensing to the nearest corporate boundary of 15 such city or town-

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

20 (d) such limitations do not prevent the issuance of a 21 nontransferable and nonassignable retail beer license to a 22 post of a nationally chartered veterans' organization or a 23 lodge of a recognized national fraternal organization if 24 such veterans' or fraternal organization has been in 25 existance for a period of 5 years or more prior to January

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1 1, 1947;

2 (e) the number of retail beer licenses that the 3 department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of 4 5 the area within a distance of 5 miles from the corporate 6 limits thereof or for use at premises situated within any 7 unincorporated town shall be as determined by the department 8 in the exercise of its sound discretion, except that no 9 retail beer license may be issued for any premises so 10 situated unless the department determines that the issuance 11 of such license is required by public convenience and 12 necessity.

13 (2) A person holding a license to sell beer for 14 consumption on the premises at retail may apply to the 15 department for an amendment to the license permitting the 16 holder to sell wine as well as beer. The division may issue 17 such emendment if it finds, on a satisfactory showing by the 18 applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or 19 preparad-food business. A person holding a beer-and-wine 20 21 license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever 22 23 reason, shall mean automatic loss of the wine amendment 24 license.

25 (3) A retail license to sell beer or table wine, or

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both, in the original packages for off-premises consumption 1 only may be issued to any person, firm, or corporation who 2 is approved by the department as a fit and proper person. 3 4 firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are operated as a 5 bona fide grocery store or a drugstore licensed as a 6 pharmacy. The number of such licenses that the department 7 may issue is not limited by the provisions of subsection (1) 8 of this section but shall be determined by the department in 9 the exercise of its sound discretion, and the department may 10 in the exercise of its sound discretion grant or deny any 11 12 application for any such license or suspend or revoke any such license for cause." 13

Section 3. Section 16-4-201, MCA, is amended to read: 14 #16-4-201. All-beverages license quota. (1) Except as 15 otherwise provided by law, a license to sell liquor, beer, 16 and wine at retail (an all-beverages license) in accordance 17 18 with the provisions of this code and the rules of the 19 department may be issued to any person who is approved by 20 the department as a fit and proper person to sell such beverages. except that the number of all-beverages licenses 21 that the 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 citles 24 25 and towns shall be determined on the basis of population

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1 prescribed in 16-4-502 as follows:

2 (a) in incorporated towns of 500 inhabitants or less
3 and within a distance of 5 miles from the corporate limits
4 of such towns, not more than two retail licenses;

5 (b) in incorporated cities or incorporated towns of 6 more than 500 inhabitants and not over 3,000 inhabitants and 7 within a distance of 5 miles from the corporate limits of 8 such cities and towns, three retail licenses for the first 9 1,000 inhabitants and one retail license for each additional 10 1,000 inhabitants;

11 rc) in incorporated cities of over 3,000 inhabitants 12 and within a distance of 5 miles from the corporate limits 13 thereof, five retail licenses for the first 3,000 14 inhabitants and one retail license for each additional 1,500 15 inhabitants.

16 (2) The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing 17 within a distance of 5 miles from the corporate limits 18 thereof, shall govern the number of retail licenses that may 19 be issued for use within such cities and towns and within a 20 distance of 5 miles from the corporate limits thereof. If 21 two or more incorporated municipalities are situated within 22 a distance of 5 miles from each other, the total number of 23 retail licenses that may be issued for use in both of such 24 25 municipalities and within a distance of 5 miles from their

1 respective corporate limits shall be determined on the basis 2 of the combined populations of both of such municipalities and may not exceed the foregoing limitations. The distance 3 4 of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured over--the 5 shortest-public-read-or-highway in a straight line from the 6 7 nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. 8

9 (3) Retail all-beverages licenses of issue on March 7, 10 1947, and which are in excess of the foregoing limitations 11 shall be renewable, but no new licenses may be issued in 12 violation of such limitations.

13 (4) Such limitations do not prevent the issuance of a 14 nontransferable and nonassignable (as to ownership only) 15 retail license to any post of a nationally chartered 16 veterans' organization or any lodge of a recognized national 17 fraternal organization if such veterans' or fraternal 18 organization has been in existence for a period of 5 years 19 or more prior to January 1, 1949.

20 (5) The number of retail all-beverages licenses that 21 the department may issue for use at premises situated 22 outside of any incorporated city or incorporated town and 23 outside of the area within a distance of 5 miles from the 24 corporate limits thereof may not be more than one license 25 for each 750 population of the county after excluding the

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1 population of incorporated cities and incorporated towns in

2 such county."

3 Section 4. Section 16-4-501. MCA, is amended to read:
4 #16-4-501. License and permit fees. (1) Each beer
5 licensee licensed to sell either beer or table wine only, or
6 both beer and table wine, under the provisions of this code,
7 shall pay an annual license fee as follows:

8 (a) each brewer, wherever located, whose product is
9 sold or offered for sale within the state, \$500; for each
10 storage depot, \$400;

11 (b) each beer wholesaler, \$400; each table wine 12 distributor, \$400;

13 (c) each beer retailer, \$200; with a wine license
14 amendment, an additional \$200;

15 (d) for a license to sell beer at retail for 16 off-premises consumption only, the same as a retail beer 17 license; for a license to sell table wine at retail for 18 off-premises consumption only, either alone or in 19 conjunction with beer, \$200;

20 (e) any unit of a nationally chartered veterans*
21 organization: \$50.

(2) The permit fee under 16-4-301(1) is computed at
the rate of \$15 a day for each day beer and table wine are
sold at those events lasting 2 or more days but in no case
be less than \$30.

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1 (3) The permit fee under 15-4-301(2) is \$10 for the 2 sale of beer and table wine only or \$20 for the sale of all 3 alcoholic beverages.

4 (4) Passenger carrier licenses shall be issued upon
5 payment by the applicant of an annual license fee in the sum
6 of \$300.

7 (5) The annual license fee for a license to sell wine
8 on the premises, when issued as an amendment to a beer-only
9 license, is \$200.

10 (6) The annual fee for resort retail liquor licenses
11 within a given resort area shall be \$2,000 for each license.
12 (7) Each licensee licensed under the guotas of
13 16-4-201 shall pay an annual license fee as follows:

14 (a) except as hereinafter provided, for each license 15 outside of Incorporated cities and incorporated towns or in 16 incorporated cities and incorporated towns with a population 17 of less than 2,000, \$250 for a unit of a nationally 18 chartered veterans' organization and \$400 for all other 19 licensees;

(5) except as hereinafter provided, for each license
in incorporated cities with a population of more than 2,000
and less than 5,000 or within a distance of 5 miles thereof,
measured over-the-shortest-public-road-or-highway in_a
straight_ling from the nearest entrance of the premises to
be licensed to the nearest boundary of such city, \$350 for a

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unit of a nationally chartered veterans' organization and
 \$500 for all other licensees;

(c) except as hereinafter provided, for each license 3 4 in incorporated cities with a population of more than 5,000 5 and less than 10,000 or within a distance of 5 miles thereof, measured over-the-shortest-public-road-or-highway 6 in a straight line from the nearest entrance of the premises 7 to be licensed to the nearest boundary of such city, \$500 8 for a unit of a nationally chartered veterans' organization 9 and \$550 for all other licensees; 10

11 (d) for each license in incorporated cities with a 12 population of 10,000 or more or within a distance of 5 miles 13 thereof, measured over-the-shortest-public-road-or-highway 14 <u>in_a_straight_line</u> from the nearest entrance of the premises 15 to be licensed to the nearest boundary of such city, \$650 16 for a unit of a nationally chartered veterans¹ organization 17 and \$500 for all other licensees;

(e) the distance of 5 miles from the corporate limits 18 19 of any incorporated cities and incorporated towns is 20 measured over-the-shortest--public--pod--or--highway in_a straight_line from the nearest entrance of the premises to 21 be licensed to the nearest boundary of such city or town; 22 and where the premises of the applicant to be licensed are 23 situated within 5 miles of the corporate boundaries of two 24 more incorporated cities or incorporated towns of 25 or

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1 different populations, the license fee chargeable by the 2 larger incorporated city or incorporated town applies and 3 shall be paid by the applicant. When the premises of the 4 applicant to be licensed are situated within an incorporated 5 town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile 6 7 limit, the license fee chargeaple by the smaller incorporated town or incorporated city applies and shall be 8 9 paid by the applicant.

10 (f) an applicant for the issuance of an original 11 Dicense to be located in areas described in subsection (d) 12 of this subsection shall pay a one-time original license fee 13 of \$20,000 for any such license issued. The one-time license 14 fee of \$20,000 shall not apply to any transfer or renewal of 15 a license duly issued prior to July 1, 1974. All licenses, 16 however, are subject to the annual renewal fee.

17 (8) The fee for one all-beverage license to a public18 airport shall be \$800. This license is nontransferable.

19 (9) The license fees herein provided for are exclusive
20 of and in addition to other license fees chargeable in
21 Hontana for the sale of alcoholic beverages."

22 Section 5. Repealer. Sections 16-4-409 and 16-4-410.
23 MCA, are repealed.

24 <u>VEW_SECTION</u> Section 6. Existing licenses not 25 affected. This act does not affect a license issued prior to

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1 October 1, 1983.

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1 1 SENATE BILL NO. 298 2 z INTRODUCED BY TOWE, TURNAGE 3 3 4 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE 5 5 DEFERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF A 6 LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDING 6 7 7 SECTIONS 16-1-106, 16-4-105, 16-4-201, AND 16-4-501, MCA: 8 and table wine. AND REPEALING SECTIONS 16-4-409 AND 15-4-410, MCA.* 8 9 9 10 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 11 Section 1. Section 16-1-106, MCA, is amended to read: 12 12 *16-1-106. Definitions. As used in this code, the 13 13 following definitions apply: 14 14 (1) "Agency agreement" means an agreement between the 15 15 department and a person appointed to sell liquor as a 16 16 commission merchant rather than as an employee. 17 17 (2) "Alcohol" means ethyl alcohol, also called consumption. 18 18 ethanol, or the hydrated oxide of ethyl. 19 19 (3) "Alcoholic beverage" means a compound produced and 20 sold for human consumption as a drink that contains more 20 21 than .5% of alconol by volume. 21 thereto an excise and license tax as provided in this code. 22 (4) "Beer" means a malt beverage containing not more 22 23 23 than 7% of alcohol by weight. 24 24 (5) *Brewer* means a person who produces malt 25 by volume. 25 beverages.

(6) "Department" means the department of revenue. (7) "Immediate family" means a spouse, dependent children, or dependent parents. (8) "Industrial use" means a use described as industrial use by the federal Alcohol Administration Act and the federal rules and regulations of 27 CFR. (9) "Liquor" means an alcoholic beverage except beer (10) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom and with or without other wholesome products suitable for human food (11) "Package" means a container or receptacle used for holding an alcoholic beverage. (12) "Posted price" means the retail price of liquor as fixed and determined by the department and in addition

(13) "Proof gallon" means a U.S. gallon of liquor at 60

degrees on the Fahrenheit scale that contains 50% of alcohol

-7-SB 298 REFERENCE BILL: INCLUDES GOVERNOR'S AMENDMENTS DATED 4-2-83

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1 (14) "Public place" means a place, building, or 2 conveyance to which the public has or may be permitted to 3 have access and any place of public resort.

4 (15)-*Public--rond--or--highway*--means--the-same-os-in 5 15-70-301(5)*

6 <u>fl6}(151</u> "Rules" means rules published by the
7 department pursuant to this code.

8 (17)(16) "State liquor facility" means a facility owned
9 or under control of the department for the purpose of
10 receiving, storing, transporting, or selling alcoholic
11 beverages.

12 <u>tidy(17)</u> "State liquor store" means a retail store
13 operated by the department in accordance with this code for
14 the purpose of selling liquor.

15 <u>(19)(18)</u> "Storage depot" means a building or structure 16 owned or operated by a brewer at any point in the state of 17 Montana off and away from the premises of a brewery, and 18 which structure is equipped with refrigeration or cooling 19 apparatus for the storage of beer and from which a brewer 20 may sell or distribute beer as permitted by this code.

t201(12) "Table wine" means wine as defined below which
 contains not more than 14% alcohol by volume.

23 (21)(20) "Warehouse" means a building or structure
 24 owned or operated by a licensed wholesaler for the
 25 receiving, storage, and distribution of beer as permitted by

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1 this code.

2 t22+1211 "Wine" means an alcoholic beverage made from 3 the normal alcoholic fermentation of the juice of sound, 4 ripe fruit or other agricultural products without addition 5 or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains not 6 7 less than 7% or more than 24% of alcohol by volume. Wine 8 may be amellorated to correct natural deficiencies, 9 sweetened, and fortified in accordance with applicable 10 federal regulations and the customs and practices of the 11 industry. Other alcoholic beverages not defined as above 12 but made in the manner of wine and labeled and sold as wine 13 in accordance with federal regulations are also wine."

14 Section 2. Section 16-4-105, MCA, is amended to read: 15 "16-4-105. Limit on retail beer licenses -- wine 16 license amendments -- off-premises consumption. (1) Except 17 as otherwise provided by law, a license to sell beer at 18 retail or beer and wine at retail, in accordance with the 19 provisions of this code and the rules of the department, may 20 be issued to any person, firm, or corporation who is approved by the department as a fit and proper person, firm, 21 22 or corporation to sell beer, except that:

(a) the number of retail beer licenses that the
 department may issue for premises situated within
 incorporated cities and incorporated towns and within a

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distance of 5 miles from the corporate limits of such cities
 and towns shall be determined on the basis of population
 prescribed in 16-4-502 as follows:

4 (i) in incorporated towns of 500 inhabitants or less 5 and within a distance of 5 miles from the corporate limits 6 of such towns, not more than one retail beer license, which 7 may not be used in conjunction with a retail all-beverages 8 license;

9 (ii) in incorporated cities or incorporated towns of 10 more than 500 inhabitants and not over 2,000 inhabitants and 11 within a distance of 5 miles from the corporate limits of 12 such cities or towns, one beer license for each 500 13 inhabitants, which may not be used in conjunction with 14 retail all-beverages licenses;

15 (iii) In incorporated citles of over 2,000 inhabitants 16 and within a distance of 5 miles from the corporate limits 17 of such cities, two additional retail beer licenses for the 18 first 2,000 inhabitants or major fraction thereof and one 19 additional retail beer license for each additional 2,000 20 inhabitants, which may not be used in conjunction with 21 retail all-beverages licenses;

(b) the number of the inhabitants in such cities and
towns, exclusive of the number of inhabitants residing
within a distance of 5 miles from the corporate limits
thereof, shall govern the number of retail beer licenses

1 that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits 2 7 thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the 4 total number of retail beer licenses that may be issued for 5 6 use in both of such municipalities and within a distance of 7 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both 8 9 of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate 10 limits of any incorporated city or incorporated town shall 11 be measured over-the-shortest-public-road-or--highway in a 12 13 straint_line from the nearest entrance of the premises 14 proposed for licensing to the nearest corporate boundary of 15 such city or town.

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

20 (d) such limitations do not prevent the issuance of a 21 nontransferable and nonassignable retail beer license to a 22 post of a nationally chartered veterans' organization or a 23 lodge of a recognized national fraternal organization if 24 such veterans' or fraternal organization has been in 25 existance for a period of 5 years or more prior to January

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1 1, 1949;

(e) the number of retail beer licenses that the Z 3 department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of 4 5 the area within a distance of 5 miles from the corporate 6 limits thereof or for use at premises situated within any 7 unincorporated town shall be as determined by the department 8 in the exercise of its sound discretion, except that no 9 retail beer license may be issued for any premises so 10 situated unless the department determines that the issuance 11 of such license is required by public convenience and 12 necess i ty.

13 (2) A person holding a license to sell beer for 14 consumption on the premises at retail may apply to the 15 department for an amendment to the license permitting the 16 holder to sell wine as well as beer. The division may issue 17 such amendment if it finds, on a satisfactory showing by the 18 applicant, that the sale of wine for consumption on the 19 premises would be supplementary to a restaurant or prepared-food business. A person holding a beer-and-wine 20 21 license may sell wine for consumption on or off the 22 premises. Nonretention of the beer license, for whatever 23 reason, shall mean automatic loss of the wine amendment 24 license.

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(3) A retail license to sell beer or table wine. or

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1 bothy in the original packages for off-premises consumption 2 only may be issued to any person, firm, or corporation who 3 is approved by the department as a fit and proper person, 4 firm, or corporation to sell beer or table wine, or both, 5 and whose premises proposed for licensing are operated as a 6 bona fide grocery store or a drugstore licensed as a 7 pharmacy. The number of such licenses that the department 8 may issue is not limited by the provisions of subsection (1) 9 of this section but shall be determined by the department in 10 the exercise of its sound discretion, and the department may 11 in the exercise of its sound discretion grant or deny any 12 application for any such license or suspend or revoke any 13 such license for cause."

14 Section 3. Section 16-4-201, NCA, is amended to read: 15 "16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, 16 17 and wine at retail (an all-beverages license) in accordance 18 with the provisions of this code and the rules of the 19 department may be issued to any person who is approved by 20 the department as a fit and proper person to sell such 21 beverages, except that the number of all-beverages licenses that the department may issue for premises situated within 22 23 incorporated cities and incorporated towns and within a 24 distance of 5 miles from the corporate limits of such cities 25 and towns shall be determined on the basis of population

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1 prescribed in 16-4-502 as follows:

2 (a) in incorporated towns of 500 inhabitants or less
3 and within a distance of 5 miles from the corporate limits
4 of such towns, not more than two retail licenses;

5 (b) in incorporated cities or incorporated towns of 6 more than 500 inhabitants and not over 3,000 inhabitants and 7 within a distance of 5 miles from the corporate limits of 8 such cities and towns, three retail licenses for the first 9 1,000 inhabitants and one retail license for each additional 10 1,000 inhabitants;

11 (c) in incorporated cities of over 3,000 inhabitants 12 and within a distance of 5 miles from the corporate limits 13 thereof, five retail licenses for the first 3,000 14 inhabitants and one retail license for each additional 1,500 15 inhabitants.

16 (2) The number of the inhabitants in such cities and 17 towns, exclusive of the number of inhabitants residing 18 within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail licenses that may 19 20 be issued for use within such cities and towns and within a 21 distance of 5 miles from the corporate limits thereof. If 22 two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of 23 24 retail licenses that may be issued for use in both of such 25 municipalities and within a distance of 5 miles from their SB 0298/03

1 respective corporate limits shall be determined on the basis 2 of the combined populations of both of such municipalities 3 and may not exceed the foregoing limitations. The distance 4 of 5 miles from the corporate limits of any incorporated 5 city or incorporated town shall be measured over--the shortest-public-road-or-highway in a straight line from the 6 nearest entrance of the premises proposed for licensing to 7 8 the nearest corporate boundary of the city or town.

9 (3) Retail all-beverages licenses of issue on March 7;
10 1947, and which are in excess of the foregoing limitations
11 shall be renewable, but no new licenses may be issued in
12 violation of such limitations.

13 (4) Such limitations do not prevent the issuance of a 14 nontransferable and nonassignable (as to ownership only) 15 retail license to any post of a nationally chartered 16 veterans' organization or any lodge of a recognized national 17 fraternal organization if such veterans" or fraternal 18 organization has been in existence for a period of 5 years 19 or more prior to January 1, 1949.

20 (5) The number of retail all-beverages licenses that 21 the department may issue for use at premises situated 22 outside of any incorporated city or incorporated town and 23 outside of the area within a distance of 5 miles from the 24 corporate limits thereof may not be more than one license 25 for each 750 population of the county after excluding the

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population of incorporated citles and incorporated towns in such county." Section 4. Section 16-4-501, MCA, is amended to read: "16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows: (a) each brewer, wherever located, whose product is sold or offered for sale within the state, \$500; for each storage depot: \$400: (b) each beer wholesaler, \$400; each table wine distributor, \$400; (c) each beer retailer, \$200; with a wine license amendment, an additional \$200; (d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only either alone or in conjunction with beer, \$200; (e) any unit of a nationally chartered veterans" organization, \$50. (2) The permit fee under 16-4-301(1) is computed at the rate of \$15 a day for each day beer and table wine are sold at those events lasting 2 or more days but in no case be less than \$30.

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1 (3) The permit fee under 16-4-301(2) is \$10 for the 2 sale of beer and table wine only or \$20 for the sale of all 3 alcoholic beverages.

4 (4) Passenger carrier licenses shall be issued upon
5 payment by the applicant of an annual license fee in the sum
6 of \$300.

7 (5) The annual license fee for a license to sell wine
8 on the premises, when issued as an amendment to a beer-only
9 license, is \$200.

10 (6) The annual fee for resort retail liquor licenses
11 within a given resort area shall be \$2,000 for each license.
12 (7) Each licensee licensed under the quotas of
13 16-4-201 shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license
outside of incorporated cities and incorporated towns or in
incorporated cities and incorporated towns with a population
of less than 2,000, \$250 for a unit of a nationally
chartered veterans^a organization and \$400 for all other
licensees;

(b) except as hereinafter provided, for each license
in incorporated cities with a population of more than 2,000
and less than 5,000 or within a distance of 5 miles thereof,
measured over-the-shortest-public-road-or-highway in a
straight_line from the nearest entrance of the premises to
be licensed to the nearest boundary of such city, \$350 for a

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1 unit of a nationally chartered veterans' organization and 2 \$500 for all other licensees;

3 (c) except as hereinafter provided, for each license 4 in incorporated cities with a population of more than 5,000 5 and less than 10,000 or within a distance of 5 miles thereof, measured over-the-shortest-public-road-or-highway 6 7 in_a_straight_ling from the nearest entrance of the premises 8 to be licensed to the nearest boundary of such city, \$500 9 for \exists unit of a mationally chartered veterans! organization 10 and \$550 for all other licensees:

11 (d) for each license in incorporated cities with a 12 population of 10,000 or more or within a distance of 5 miles 13 thereof, measured over-the-shortest-public-road-or-highway 14 in_a_straight_line from the nearest entrance of the premises 15 to be licensed to the nearest boundary of such city, \$650 16 for a unit of a nationally chartered veterans' organization 17 and \$300 for all other licensees;

18 (e) the distance of 5 miles from the corporate limits 19 of any incorporated cities and incorporated towns is measured over-the-shortest--public--rood--or--highway in_a 20 21 straight_line from the nearest entrance of the premises to 22 be licensed to the nearest boundary of such city or town; 23 and where the premises of the applicant to be licensed are 24 situated within 5 miles of the corporate boundaries of two 25 more incorporated cities or incorporated towns of or -

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1 different populations, the license fee chargeable by the 2 larger incorporated city or incorporated town applies and 3 shall be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated 4 5 town or incorporated city and any portion of the 6 incorporated town or incorporated city is without a 5-mile limit. the license fee chargeable by the smaller 7 8 incorporated town or incorporated city applies and shall be 9 paid by the applicant.

10 (f) an applicant for the issuance of an original 11 license to be located in areas described in subsection (d) 12 of this subsection shall pay a one-time original license fee 13 of \$20,000 for any such license issued. The one-time license 14 fee of \$20,000 shall not apply to any transfer or renewal of 15 a license duly issued prior to July 1, 1974. All licenses, 16 however, are subject to the annual renewal fee.

17 (3) The fee for one all-beverage license to a public
18 airport shall be \$800. This license is nontransferable.

19 (9) The license fees herein provided for are exclusive
20 of and in addition to other license fees chargeable in
21 Montana for the sale of alcoholic beverages."

22 Section 5. Repealer. Sections 16-4-409 and 16-4-410.
23 MCA, are repealed.

24 NEW-SEETIBN#--Section-6*--Existing----licenses----not

25 affected---This-act-does-not-affect-a-lieense--issued--prior

-14-

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1 to-October-1+-1983*

-End-

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