

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, 46; Noes, 1. Transmitted to House.

IN THE HOUSE

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 SENATE

March 23, 1983	Returned to Senate. Sent to enrolling.  Reported correctly enrolled.
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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, 46; Noes, 1. Transmitted to House.

IN THE HOUSE

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 SENATE

March 23, 1983	Returned to Senate. Sent to enrolling.
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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 amendments 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.
	Reported correctly enrolled.

1 *Senate* BILL NO. *298*  
2 INTRODUCED BY *Sen. Tarnage*  
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:  
11 Section 1. Section 16-1-106, MCA, is amended to read:  
12 "16-1-106. Definitions. As used in this code, the  
13 following definitions apply:  
14 (1) "Agency agreement" means an agreement between the  
15 department and a person appointed to sell liquor as a  
16 commission merchant rather than as an employee.  
17 (2) "Alcohol" means ethyl alcohol, also called  
18 ethanol, or the hydrated oxide of ethyl.  
19 (3) "Alcoholic beverage" means a compound produced and  
20 sold for human consumption as a drink that contains more  
21 than .5% of alcohol by volume.  
22 (4) "Beer" means a malt 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.  
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) "Malt 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.  
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.

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)~~ (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.

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  
6 treatment of clarifying and aging, and that contains not  
7 less than 7% or more than 24% of alcohol by volume. Wine  
8 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  
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  
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

1 distance of 5 miles from the corporate limits of such cities  
2 and towns shall be determined on the basis of population  
3 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;

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

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  
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  
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 existence for a period of 5 years or more prior to January

1 1, 1949;

2 (e) the number of retail beer licenses that the  
3 department may issue for use at premises situated outside of  
4 any incorporated city or incorporated town and outside of  
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 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  
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  
23 reason, shall mean automatic loss of the wine amendment  
24 license.

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

1 both, 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, MCA, is amended to read:

15 "16-4-201. All-beverages license quota. (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

prescribed in 16-4-502 as follows:

(a) 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 two retail licenses;

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

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

(2) 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 licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their

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

(3) Retail all-beverages 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.

(4) Such limitations do not prevent the issuance of a nontransferable and nonassignable (as to ownership only) retail license to any post of a nationally chartered veterans' organization or any 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, 1949.

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



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.

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  
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;

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

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

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 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, \$500 for a unit of a nationally chartered veterans' organization 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-road-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;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is 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 or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of

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

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

(8) The fee for one all-beverage license to a public 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 Montana for the sale of alcoholic beverages."

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

NEW SECTION. Section 6. Existing licenses not affected. This act does not affect a license issued prior to

1    October 1, 1983.

-End-

Approved by Committee  
on Public Health, Welfare  
& Safety

1 *Sen. Turmagne* BILL NO. *298*  
2 INTRODUCED BY *Sen. Turmagne*  
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:  
11 Section 1. Section 16-1-106, MCA, is amended to read:  
12 "16-1-106. Definitions. As used in this code, the  
13 following definitions apply:  
14 (1) "Agency agreement" means an agreement between the  
15 department and a person appointed to sell liquor as a  
16 commission merchant rather than as an employee.  
17 (2) "Alcohol" means ethyl alcohol, also called  
18 ethanol, or the hydrated oxide of ethyl.  
19 (3) "Alcoholic beverage" means a compound produced and  
20 sold for human consumption as a drink that contains more  
21 than .5% of alcohol by volume.  
22 (4) "Beer" means a malt 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.  
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) "Malt 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  
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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.

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.

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 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.

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 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.

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  
 6 treatment of clarifying and aging, and that contains not  
 7 less than 7% or more than 24% of alcohol by volume. Wine  
 8 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  
 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  
 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

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;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities or towns, one beer license for each 500 inhabitants, which may not be used in conjunction with 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 within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured ~~over the shortest public road or highway in a~~ straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of 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;

2 (e) the number of retail beer licenses that the  
3 department may issue for use at premises situated outside of  
4 any incorporated city or incorporated town and outside of  
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 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  
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  
23 reason, shall mean automatic loss of the wine amendment  
24 license.

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

1 both, 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, MCA, is amended to read:

15 "16-4-201. All-beverages license quota. (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

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  
19 thereof, shall govern the number of retail licenses that may  
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  
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~~  
6 ~~shortest public road or highway in a straight line~~ from the  
7 nearest entrance of the premises proposed for licensing to  
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



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.

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  
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;

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

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

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 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, \$500 for a unit of a nationally chartered veterans' organization 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-road-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;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is 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 or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of

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

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

(8) The fee for one all-beverage license to a public 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 Montana for the sale of alcoholic beverages."

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

NEW SECTION. Section 6. Existing licenses not affected. This act does not affect a license issued prior to

1     October 1, 1983.

-End-

1 *Sen. Bill No. 298*  
2 INTRODUCED BY *Sen. Turnage*  
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:  
11 Section 1. Section 16-1-106, MCA, is amended to read:  
12 "16-1-106. Definitions. As used in this code, the  
13 following definitions apply:  
14 (1) "Agency agreement" means an agreement between the  
15 department and a person appointed to sell liquor as a  
16 commission merchant rather than as an employee.  
17 (2) "Alcohol" means ethyl alcohol, also called  
18 ethanol, or the hydrated oxide of ethyl.  
19 (3) "Alcoholic beverage" means a compound produced and  
20 sold for human consumption as a drink that contains more  
21 than .5% of alcohol by volume.  
22 (4) "Beer" means a malt 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.  
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) "Malt 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.  
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.

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)~~ (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.

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  
6 treatment of clarifying and aging, and that contains not  
7 less than 7% or more than 24% of alcohol by volume. Wine  
8 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  
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  
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

1 distance of 5 miles from the corporate limits of such cities  
2 and towns shall be determined on the basis of population  
3 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;

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

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  
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~~  
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 existence for a period of 5 years or more prior to January

1 1, 1949;

2 (e) the number of retail beer licenses that the  
3 department may issue for use at premises situated outside of  
4 any incorporated city or incorporated town and outside of  
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 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  
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  
23 reason, shall mean automatic loss of the wine amendment  
24 license.

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

1 both, 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, MCA, is amended to read:

15 "16-4-201. All-beverages license quota. (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

prescribed in 16-4-502 as follows:

(a) 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 two retail licenses;

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

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

(2) 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 licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their

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

(3) Retail all-beverages 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.

(4) Such limitations do not prevent the issuance of a nontransferable and nonassignable (as to ownership only) retail license to any post of a nationally chartered veterans' organization or any 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, 1949.

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



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.

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  
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;

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

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

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 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, \$500 for a unit of a nationally chartered veterans' organization 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 road 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;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is 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 or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of

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

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

(8) The fee for one all-beverage license to a public 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 Montana for the sale of alcoholic beverages."

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

NEW SECTION. Section 6. Existing licenses not affected. This act does not affect a license issued prior to

1     October 1, 1983.

-End-

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

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

## SENATE BILL NO. 298

INTRODUCED BY TOME, TURNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF A LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDING 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, 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.

(2) "Alcohol" means ethyl alcohol, also called 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.

(5) "Brewer" means a person who produces malt 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 and table wine.

(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 consumption.

(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 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.

(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.

~~(15) "Public road or highway" means the same as in 15-78-301(5).~~

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

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

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

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

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

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

this code.

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

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

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

1 distance of 5 miles from the corporate limits of such cities  
2 and towns shall be determined on the basis of population  
3 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;

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

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  
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~~  
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 existence for a period of 5 years or more prior to January

1 1, 1947;  
2 (e) the number of retail beer licenses that the  
3 department may issue for use at premises situated outside of  
4 any incorporated city or incorporated town and outside of  
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 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  
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  
23 reason, shall mean automatic loss of the wine amendment  
24 license.

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

1 both, 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, MCA, is amended to read:  
15 "16-4-201. All-beverages license quota. (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



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  
19 thereof, shall govern the number of retail licenses that may  
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  
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~~  
6 ~~shortest-public-road-or-highway in a straight line~~ from the  
7 nearest entrance of the premises proposed for licensing to  
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

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.

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  
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;

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

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

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 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, \$500 for a unit of a nationally chartered veterans' organization and \$550 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-road-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;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is 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 or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of

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

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

(8) The fee for one all-beverage license to a public 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 Montana for the sale of alcoholic beverages."

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

~~NEW SECTION.~~ Section 6. Existing licenses not affected. This act does not affect a license issued prior to

SB 0298/02

1 October 1, 1983.

-End-

-15-

SB 298

## SENATE BILL NO. 298

INTRODUCED BY TOWE, TURNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF A LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDING 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, 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.

(2) "Alcohol" means ethyl alcohol, also called 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.

(5) "Brewer" means a person who produces malt 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 and table wine.

(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 consumption.

(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 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.

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) (151) "Rules" means rules published by the~~  
7 ~~department pursuant to this code.~~

8 ~~(17) (161) "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) (171) "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) (181) "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) (191) "Table wine" means wine as defined below which~~  
22 ~~contains not more than 14% alcohol by volume.~~

23 ~~(21) (201) "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) (211) "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~~  
6 ~~treatment of clarifying and aging, and that contains not~~  
7 ~~less than 7% or more than 24% of alcohol by volume. Wine~~  
8 ~~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  
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  
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

1 distance of 5 miles from the corporate limits of such cities  
2 and towns shall be determined on the basis of population  
3 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;

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

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  
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  
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 existence for a period of 5 years or more prior to January

1 1, 1949;

2 (e) the number of retail beer licenses that the  
3 department may issue for use at premises situated outside of  
4 any incorporated city or incorporated town and outside of  
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 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  
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  
23 reason, shall mean automatic loss of the wine amendment  
24 license.

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

1 both, 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, MCA, is amended to read:  
15 "16-4-201. All-beverages license quota. (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



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  
19 thereof, shall govern the number of retail licenses that may  
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  
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~~  
6 shortest-public-road-or-highway in a straight line from the  
7 nearest entrance of the premises proposed for licensing to  
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

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.

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  
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;

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

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  
6 thereof, measured ~~over-the-shortest-public-road-or-highway~~  
7 ~~in a straight line~~ from the nearest entrance of the premises  
8 to be licensed to the nearest boundary of such city, \$500  
9 for a unit of a nationally 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 \$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 of two  
25 or more incorporated cities or incorporated towns of

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  
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 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-SECTION-6-Existing---licensees---not~~  
25 ~~affected---This-act-does-not-affect-a-license-issued-prior~~

1 to-October-17-1983

-End-