

SENATE BILL NO. 431

Introduced: 02/16/83

Referred to Committee on Taxation: 02/16/83

Hearing: 2/19/83

Report: 02/19/83, Do Pass, As Amended

2nd Reading: 02/22/83

On Motion, 2/22/83, That The Bill Be Indefinitely Postponed.

Motion Passed.

Bill Killed.

1 *House* BILL NO. *431*  
 2 INTRODUCED BY *Upper House* *Blaylock Eck*  
 3 *House* *Don* *Hay* *Heating*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PHASE OUT THE LIQUOR  
 5 QUOTA SYSTEM TO IMPLEMENT RECOMMENDATIONS OF THE GOVERNOR'S  
 6 MANAGEMENT COUNCIL; AMENDING SECTIONS 16-4-201, 16-4-204,  
 7 AND 16-4-501, MCA; AND PROVIDING EFFECTIVE AND TERMINATION  
 8 DATES."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 16-4-201, MCA, is amended to read:

12 "16-4-201. All-beverages license quota. (1) Except as  
 13 provided in [section 6] and except as otherwise provided by  
 14 law, a license to sell liquor, beer, and wine at retail (an  
 15 all-beverages license) in accordance with the provisions of  
 16 this code and the rules of the department may be issued to  
 17 any person who is approved by the department as a fit and  
 18 proper person to sell such beverages, except that the number  
 19 of all-beverages licenses that the department may issue for  
 20 premises situated within incorporated cities and  
 21 incorporated towns and within a distance of 5 miles from the  
 22 corporate limits of such cities and towns shall be the  
 23 number of over-quota all-beverages licenses issued as of  
 24 December 31, 1982, plus the number determined on the basis  
 25 of population prescribed in 16-4-502 as follows:

1 (a) (i) in 1983, not more than two retail licenses in  
 2 incorporated towns of 500 inhabitants or less and within a  
 3 distance of 5 miles from the corporate limits of such towns;  
 4 (ii) in 1984, not more than two retail licenses in  
 5 incorporated towns of 450 inhabitants or less and within a  
 6 distance of 5 miles from the corporate limits of such towns;  
 7 (iii) in 1985, not more than two retail licenses in  
 8 incorporated towns of 405 inhabitants or less and within a  
 9 distance of 5 miles from the corporate limits of such towns;  
 10 (iv) in 1986, not more than two retail licenses in  
 11 incorporated towns of 365 inhabitants or less and within a  
 12 distance of 5 miles from the corporate limits of such towns;  
 13 (v) in 1987, not more than two retail licenses in  
 14 incorporated towns of 329 inhabitants or less and within a  
 15 distance of 5 miles from the corporate limits of such towns;  
 16 (vi) in 1988, not more than two retail licenses in  
 17 incorporated towns of 296 inhabitants or less and within a  
 18 distance of 5 miles from the corporate limits of such towns;  
 19 (vii) in 1989, not more than two retail licenses in  
 20 incorporated towns of 266 inhabitants or less and within a  
 21 distance of 5 miles from the corporate limits of such towns;  
 22 (viii) in 1990, not more than two retail licenses in  
 23 incorporated towns of 239 inhabitants or less and within a  
 24 distance of 5 miles from the corporate limits of such towns;  
 25 (ix) in 1991, not more than two retail licenses in

1 incorporated towns of 216 inhabitants or less and within a  
 2 distance of 5 miles from the corporate limits of such towns:  
 3 (xi) in 1972, not more than two retail licenses in  
 4 incorporated towns of 194 inhabitants or less and within a  
 5 distance of 5 miles from the corporate limits of such towns:  
 6 (b) (i) in 1983, in incorporated cities or  
 7 incorporated towns of more than 500 inhabitants and not over  
 8 3,000 inhabitants and within a distance of 5 miles from the  
 9 corporate limits of such cities and towns, three retail  
 10 licenses for the first 1,000 inhabitants and one retail  
 11 license for each additional 1,000 inhabitants;  
 12 (iii) in 1984, in incorporated cities or incorporated  
 13 towns of more than 450 inhabitants and not over 2,700  
 14 inhabitants and within a distance of 5 miles from the  
 15 corporate limits of such cities and towns, three retail  
 16 licenses for the first 900 inhabitants and one retail  
 17 license for each additional 900 inhabitants;  
 18 (iiii) in 1985, in incorporated cities or incorporated  
 19 towns of more than 405 inhabitants and not over 2,430  
 20 inhabitants and within a distance of 5 miles from the  
 21 corporate limits of such cities and towns, three retail  
 22 licenses for the first 810 inhabitants and one retail  
 23 license for each additional 810 inhabitants;  
 24 (v) in 1986, in incorporated cities or incorporated  
 25 towns of more than 365 inhabitants and not over 2,187

1 inhabitants and within a distance of 5 miles from the  
 2 corporate limits of such cities and towns, three retail  
 3 licenses for the first 729 inhabitants and one retail  
 4 license for each additional 729 inhabitants;  
 5 (vi) in 1987, in incorporated cities or incorporated  
 6 towns of more than 329 inhabitants and not over 1,968  
 7 inhabitants and within a distance of 5 miles from the  
 8 corporate limits of such cities and towns, three retail  
 9 licenses for the first 656 inhabitants and one retail  
 10 license for each additional 656 inhabitants;  
 11 (vii) in 1988, in incorporated cities or incorporated  
 12 towns of more than 296 inhabitants and not over 1,771  
 13 inhabitants and within a distance of 5 miles from the  
 14 corporate limits of such cities and towns, three retail  
 15 licenses for the first 590 inhabitants and one retail  
 16 license for each additional 590 inhabitants;  
 17 (viii) in 1989, in incorporated cities or incorporated  
 18 towns of more than 266 inhabitants and not over 1,594  
 19 inhabitants and within a distance of 5 miles from the  
 20 corporate limits of such cities and towns, three retail  
 21 licenses for the first 531 inhabitants and one retail  
 22 license for each additional 531 inhabitants;  
 23 (viii) in 1990, in incorporated cities or incorporated  
 24 towns of more than 239 inhabitants and not over 1,435  
 25 inhabitants and within a distance of 5 miles from the

corporate limits of such cities and towns, three retail licenses for the first 478 inhabitants and one retail license for each additional 478 inhabitants:

(ix) in 1991, in incorporated cities or incorporated towns of more than 216 inhabitants and not over 1,291 inhabitants and within a distance of 5 miles from the corporate limits of such cities and towns, three retail licenses for the first 430 inhabitants and one retail license for each additional 430 inhabitants:

(x) in 1992, in incorporated cities or incorporated towns of more than 194 inhabitants and not over 1,162 inhabitants and within a distance of 5 miles from the corporate limits of such cities and towns, three retail licenses for the first 378 inhabitants and one retail license for each additional 378 inhabitants:

(c) (i) in 1983, 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:

(ii) in 1984, in incorporated cities of over 2,700 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 2,700 inhabitants and one retail license for each additional 1,350 inhabitants:

(iii) in 1985, in incorporated cities of over 2,430 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 2,430 inhabitants and one retail license for each additional 1,215 inhabitants:

(iv) in 1986, in incorporated cities of over 2,187 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 2,187 inhabitants and one retail license for each additional 1,094 inhabitants:

(v) in 1987, in incorporated cities of over 1,968 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 1,968 inhabitants and one retail license for each additional 984 inhabitants:

(vi) in 1988, in incorporated cities of over 1,771 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 1,771 inhabitants and one retail license for each additional 886 inhabitants:

(vii) in 1989, in incorporated cities of over 1,594 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 1,594 inhabitants and one retail license for each additional 797 inhabitants:

1 (viii) in 1990, in incorporated cities of over 1,435  
 2 inhabitants and within a distance of 5 miles from the  
 3 corporate limits thereof, five retail licenses for the first  
 4 1,435 inhabitants and one retail license for each additional  
 5 117 inhabitants;

6 (ix) in 1991, in incorporated cities of over 1,291  
 7 inhabitants and within a distance of 5 miles from the  
 8 corporate limits thereof, five retail licenses for the first  
 9 1,291 inhabitants and one retail license for each additional  
 10 646 inhabitants;

11 (x) in 1992, in incorporated cities of over 1,162  
 12 inhabitants and within a distance of 5 miles from the  
 13 corporate limits thereof, five retail licenses for the first  
 14 1,162 inhabitants and one retail license for each additional  
 15 581 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 from the nearest entrance of  
 7 the premises proposed for licensing to the nearest corporate  
 8 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) ~~(a) The~~ In 1981, the number of retail  
 21 all-beverages licenses that the department may issue for use  
 22 at premises situated outside of any incorporated city or  
 23 incorporated town and outside of the area within a distance  
 24 of 5 miles from the corporate limits thereof may not be more  
 25 than one license for each 750 population of the county after

1 excluding the population of incorporated cities and  
2 incorporated towns in such county.

3 (b) In 1984, the population limit referred to in  
4 subsection (5)(a) is decreased to 675.

5 (c) In 1985, the population limit referred to in  
6 subsection (5)(a) is decreased to 608.

7 (d) In 1986, the population limit referred to in  
8 subsection (5)(a) is decreased to 547.

9 (e) In 1987, the population limit referred to in  
10 subsection (5)(a) is decreased to 492.

11 (f) In 1988, the population limit referred to in  
12 subsection (5)(a) is decreased to 443.

13 (g) In 1989, the population limit referred to in  
14 subsection (5)(a) is decreased to 399.

15 (h) In 1990, the population limit referred to in  
16 subsection (5)(a) is decreased to 359.

17 (i) In 1991, the population limit referred to in  
18 subsection (5)(a) is decreased to 323.

19 (j) In 1992, the population limit referred to in  
20 subsection (5)(a) is decreased to 291."

21 Section 2. Section 16-4-501, MCA, is amended to read:

22 "16-4-501. License and permit fees. (1) Each beer  
23 licensee licensed to sell either beer or table wine only, or  
24 both beer and table wine, under the provisions of this code,  
25 shall pay an annual license fee as follows:

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

4 (b) each beer wholesaler, \$400; each table wine  
5 distributor, \$400;

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

8 (d) for a license to sell beer at retail for  
9 off-premises consumption only, the same as a retail beer  
10 license; for a license to sell table wine at retail for  
11 off-premises consumption only, either alone or in  
12 conjunction with beer, \$200;

13 (e) any unit of a nationally chartered veterans'  
14 organization, \$50.

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

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

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

25 (5) The annual license fee for a license to sell wine

on the premises, when issued as an amendment to a beer-only license, is \$200.

(6) The annual fee for resort retail liquor licenses within a given resort area shall be \$2,000 for each license.

(7) Each licensee licensed under ~~the--queens--of~~ 16-4-201 shall pay an annual license fee as follows:

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

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

1 incorporated city applies and shall be paid by the  
2 applicant.

3 (f) an applicant for the issuance of an original  
4 license to be located in areas described in subsection (d)  
5 of this subsection shall pay a one-time original license fee  
6 of \$20,000 for any such license issued, ~~and any other~~  
7 ~~applicants for the issuance of an original license to be~~  
8 ~~located in any other area shall pay a one-time original fee~~  
9 ~~of \$10,000 for any such license issued.~~ The one-time license  
10 fee of \$20,000 shall not apply to any transfer or renewal of  
11 a license duly issued prior to July 1, 1974. All licenses,  
12 however, are subject to the annual renewal fee.

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

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

18 ~~NEW SECTION.~~ Section 3. License to be issued on the  
19 basis of highest bid. (1) An all-beverages license for  
20 on-premises consumption shall be issued by the department of  
21 revenue based upon the highest bid selection method  
22 specified in [section 4] whenever more than one qualified  
23 applicant applies for a license made available due to a  
24 population increase within a quota area under the provisions  
25 of 16-4-502 or due to an increase in the number of licenses

1 for a given population under the provisions of 16-4-201.

2 (2) The department shall insure that the highest  
3 bidding selection method is conducted in a public manner  
4 with at least three witnesses who are not applicants or  
5 public employees.

6 (3) The highest bidding selection shall take place  
7 within 15 days after completion of the hearing process  
8 provided for in 16-4-207.

9 (4) The results of the bidding conducted in accordance  
10 with this section are final.

11 ~~NEW SECTION.~~ Section 4. Conduct of the bidding system  
12 -- minimum bid. (1) The department shall institute a  
13 procedure for the competitive bidding system provided for in  
14 [section 3] as follows:

15 (a) Qualified applicants shall be notified of the time  
16 and place that competitive bidding for a license will occur.

17 (b) Only qualified applicants may participate in the  
18 bidding process.

19 (c) The director of the department or his designated  
20 representative shall conduct the bidding process.

21 (d) Except as provided in subsection (2), a license  
22 shall be awarded to the highest qualified bidder.

23 (2) The minimum bid for an original license to be  
24 located in areas described in 16-4-501(7)(d) is \$20,000. The  
25 minimum bid for an original license to be located in any



1 other area is \$10,000.

2 ~~NEW SECTION.~~ Section 5. Proceeds of bidding process.  
3 (1) Except as provided in subsection (2), the amount paid  
4 for the issuance of a new all-beverages license in excess of  
5 the minimum bid provided for in [section 4] shall be  
6 distributed equally to the holders of all-beverages licenses  
7 in the quota area where the new license is issued.

8 (2) (a) A licensee whose all-beverages license was  
9 issued after [the effective date of this act] may not share  
10 in a distribution.

11 (b) A licensee whose all-beverages license is  
12 transferred into a quota area under 16-4-204(6) may not  
13 share in the distribution.

14 (3) The amount received by a licensee under subsection  
15 (1) may not exceed the amount bid and paid for the first  
16 all-beverages license sold in the quota area under [sections  
17 3 and 4].

18 (4) The amount collected by the department in excess  
19 of the maximum distribution allowed under subsection (3)  
20 must be deposited in the general fund.

21 ~~NEW SECTION.~~ Section 6. Liquor quota to end in  
22 absence of minimum price bid. (1) The limitation contained  
23 in Title 16, chapter 4, part 2, on the number of  
24 all-beverages licenses that may be issued for premises  
25 situated in a quota area shall no longer apply when there

1 are no qualified bidders who are willing to pay the minimum  
2 price for an all-beverages license set forth in [section  
3 4(2)].

4 (2) If the limitations contained in Title 16, chapter  
5 4, part 2, no longer apply to a quota area pursuant to  
6 subsection (1), the department shall issue an all-beverages  
7 license to an otherwise qualified applicant willing to pay  
8 the minimum price set forth in [section 4(2)] without  
9 limitation.

10 Section 7. Section 16-4-201, MCA, is amended to read:

11 "16-4-201. All-beverages license quota. (1) Except as  
12 otherwise provided by law, a license to sell liquor, beer,  
13 and wine at retail (an all-beverages license) in accordance  
14 with the provisions of this code and the rules of the  
15 department may be issued to any person who is approved by  
16 the department as a fit and proper person to sell such  
17 beverages, ~~except that the number of all-beverages licenses~~  
18 ~~that the department may issue for premises situated within~~  
19 ~~incorporated cities and incorporated towns and within a~~  
20 ~~distance of 5 miles from the corporate limits of such cities~~  
21 ~~and towns shall be determined on the basis of population~~  
22 ~~prescribed in 16-4-502 as follows:~~

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

1       (b)--in--incorporated--cities--or--incorporated--towns--of  
 2       more--than--500--inhabitants--and--not--over--3,000--inhabitants--and  
 3       within--a--distance--of--5--miles--from--the--corporate--limits--of  
 4       such--cities--and--towns--three--retail--licenses--for--the--first  
 5       1,000--inhabitants--and--one--retail--license--for--each--additional  
 6       1,000--inhabitants;  
 7       (c)--in--incorporated--cities--of--over--3,000--inhabitants  
 8       and--within--a--distance--of--5--miles--from--the--corporate--limits  
 9       thereof--five--retail--licenses--for--the--first--3,000  
 10       inhabitants--and--one--retail--license--for--each--additional--1,500  
 11       inhabitants;  
 12       (2)--The--number--of--the--inhabitants--in--such--cities--and  
 13       towns--exclusive--of--the--number--of--inhabitants--residing  
 14       within--a--distance--of--5--miles--from--the--corporate--limits  
 15       thereof--shall--govern--the--number--of--retail--licenses--that--may  
 16       be--issued--for--use--within--such--cities--and--towns--and--within--a  
 17       distance--of--5--miles--from--the--corporate--limits--thereof--if  
 18       two--or--more--incorporated--municipalities--are--situated--within  
 19       a--distance--of--5--miles--from--each--other--the--total--number--of  
 20       retail--licenses--that--may--be--issued--for--use--in--both--of--such  
 21       municipalities--and--within--a--distance--of--5--miles--from--their  
 22       respective--corporate--limits--shall--be--determined--on--the--basis  
 23       of--the--combined--populations--of--both--of--such--municipalities  
 24       and--may--not--exceed--the--foregoing--limitations--The--distance  
 25       of--5--miles--from--the--corporate--limits--of--any--incorporated

1       city--or--incorporated--town--shall--be--measured--over--the  
 2       shortest--public--road--or--highway--from--the--nearest--entrance--of  
 3       the--premises--proposed--for--licensing--to--the--nearest--corporate  
 4       boundary--of--the--city--or--towns  
 5       (3)--Retail--alcohol--beverages--licenses--of--issue--on--March--7,  
 6       1947--and--which--are--in--excess--of--the--foregoing--limitations  
 7       shall--be--renewable--but--no--new--licenses--may--be--issued--in  
 8       violation--of--such--limitations;  
 9       (4)--Such--limitations--do--not--prevent--the--issuance--of--a  
 10       nontransferable--and--nonassignable--(as--to--ownership--only)  
 11       retail--license--to--any--post--office--of--a--nationally--chartered  
 12       veterans--organization--or--any--headquarters--of--a--recognized--national  
 13       fraternal--organization--if--such--veterans--or--fraternal  
 14       organization--has--been--in--existence--for--a--period--of--5--years  
 15       or--more--prior--to--January--1, 1949;  
 16       (5)--The--number--of--retail--alcohol--beverages--licenses--that  
 17       the--department--may--issue--for--use--at--premises--situated  
 18       outside--of--any--incorporated--city--or--incorporated--town--and  
 19       outside--of--the--area--within--a--distance--of--5--miles--from--the  
 20       corporate--limits--thereof--may--not--be--more--than--one--license  
 21       for--each--750--population--of--the--county--after--excluding--the  
 22       population--of--incorporated--cities--and--incorporated--towns--in  
 23       such--county."  
 24       Section R. Section 16-4-204, MCA, is amended to read:  
 25       "16-4-204. Contents of license -- posting -- privilege

1 -- catering endorsement -- transfer -- expiration. (1) Every  
2 license issued under this part shall set forth the name of  
3 the person to whom issued, the location, by street and  
4 number or other appropriate specific description of location  
5 if no street address exists, of the premises where the  
6 business is to be carried on under said license, and such  
7 other information as the department shall deem necessary.  
8 If the licensee is a partnership or if more than one person  
9 has any interest in the business operated under the license,  
10 the names of all persons in the partnership or interested in  
11 the business must appear on the license. Every license must  
12 be posted in a conspicuous place on the premises wherein the  
13 business authorized under the license is conducted, and such  
14 license shall be exhibited upon request to any authorized  
15 representative of the department or to any peace officer of  
16 the state of Montana.

17 (2) Any license issued under the provisions of this  
18 part shall be considered a privilege personal to the  
19 licensee named in the license and shall be good until the  
20 expiration of the license unless sooner revoked or  
21 suspended.

22 (3) A license may be transferred to the executor or  
23 administrator of the estate of any deceased licensee when  
24 such estate consists in whole or in part of the business of  
25 selling liquor under a license, and in such event the

1 license may descend or be disposed of with the business to  
2 which it is applicable under appropriate probate  
3 proceedings.

4 (4) In the event of a major loss or damage to licensed  
5 premises by unforeseen natural causes or in case of  
6 expiration of lease of the licensed premises or in the event  
7 of eviction or increase of rent by the landlord (in case of  
8 rented licensed premises) or in case of proposed removal of  
9 license to premises as substantially suited for the retail  
10 liquor business as the premises vacated, the licensee may  
11 apply to the department for a transfer of the license to  
12 different premises. The department may in its discretion  
13 permit a transfer in such cases if it appears to the  
14 department that such a transfer is required to do justice to  
15 the licensee applying for the transfer. The department  
16 shall in no event nor for any cause permit a transfer to  
17 different premises where the sanitary, health, and service  
18 facilities are less satisfactory than such facilities which  
19 exist or had existed at the premises from which the transfer  
20 is proposed to be made.

21 (5) Upon a bona fide sale of the business operated  
22 under any license, the license may be transferred to a  
23 qualified purchaser. No transfer of any license as to  
24 person or location shall be effective unless and until  
25 approved by the department, and any licensee or transferee

or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(6)-(a)-Except-as-provided-in-subsection-(6)(b)-a license-may-be-transferred-to-a-new-ownership-and-to-a location-outside-the-quota-area-for-which-it-was-originally issued-only-when-the-following-criteria-are-met:

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

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

(iii)-the-department-finds-after-a-public-hearing that-the-public-convenience-and-necessity-would-be-served-by such-a-transfer;

(a)-A-license-within-an-incorporated-quota-area-may-be

transferred-to-a-new-ownership-and-to-a-new-unincorporated location-within-the-same-county-on-application-to-and-with consent-of-the-department-when-the-quota-of-the all-beverages-licenses-in-the-original-quota-area-exceeds the-quota-for-that-area-by-at-least-25%-in-the-most-recent census-and-will-not-fall-below-that-level-because-of-the transfers;

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

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

(7)(b) (a) Any all-beverage licensee is, upon the approval and in the discretion of the liquor division, entitled to a catering endorsement to his all-beverage

1 license to allow the catering and sale of alcoholic  
2 beverages to persons attending a special event upon premises  
3 not otherwise licensed for the sale of alcoholic beverages,  
4 such beverages to be consumed on the premises where the  
5 event is held.

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

9 (c) A written application for each event for which the  
10 licensee intends to provide catering services, the written  
11 approval of the catering application by the sponsor of the  
12 special event, and a fee of \$40 must be filed with the  
13 department at least 10 days prior to the event and shall  
14 describe the location of the premises where the event is to  
15 be held, the nature of the event, and the period during  
16 which the event is to be held. An all-beverage licensee who  
17 holds an endorsement granted under this subsection ~~(7)~~ (6)  
18 may not receive approval to cater an event of which he is  
19 the sponsor. The catered event must be within 100 miles of  
20 the licensee's regular place of business. If obtained, the  
21 licensee shall display in a prominent place on those  
22 premises, the written approval from the department for each  
23 event which is catered pursuant to this subsection.

24 (d) The licensee shall file with each application for  
25 an event to be catered a written statement of approval of

1 the premises where the event is to be held issued by the  
2 department of health and environmental sciences.

3 (e) The sale of alcoholic beverages pursuant to a  
4 catering endorsement is subject to the provisions of  
5 16-6-103.

6 (f) The sale of alcoholic beverages pursuant to a  
7 catering endorsement is subject to the provisions of  
8 16-3-306, unless entities named in 16-3-306 give their  
9 written approval.

10 ~~(7)~~ (11) Except as above provided, no license shall be  
11 transferred or sold nor shall it be used for any place of  
12 business not described in the license; provided, however,  
13 that such license may be subject to mortgage and other valid  
14 liens, in which event the name of the mortgagee, upon  
15 application to and approval of the department, must be  
16 endorsed on the license.

17 ~~(9)~~ (8) All licenses shall expire at midnight of June  
18 30 of each year."

19 NEW SECTION. Section 9. Codification instruction.  
20 Sections 3 through 6 are intended to be codified as an  
21 integral part of Title 16, chapter 4, and the provisions of  
22 Title 16, chapter 4, apply to sections 3 through 6.

23 NEW SECTION. Section 10. Effective and termination  
24 dates. (1) Except as provided in subsection (3), this act is  
25 effective on passage and approval.

LC 2124/01

- 1           (2) The amendments to 16-4-201 contained in section 1  
2   terminate on December 31, 1992.  
3           (3) Sections 7 and 8 are effective January 1, 1993.

-End-

Approved by committee  
on Taxation

## SENATE BILL NO. 431

INTRODUCED BY CRIPPEN, TOWE, REGAN,  
BLAYLOCK, ECK, FAGG, BENGTSON, DOVER,  
HAGER, KEATING, WINSLOW, KITSELMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PHASE OUT THE LIQUOR  
QUOTA SYSTEM TO IMPLEMENT RECOMMENDATIONS OF THE GOVERNOR'S  
MANAGEMENT COUNCIL; AMENDING SECTIONS 16-4-201, 16-4-204,  
AND 16-4-501, MCA; AND PROVIDING EFFECTIVE AND TERMINATION  
DATES."

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

Section 1. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except ~~as~~  
~~provided--in-section-61-and-except~~ as otherwise provided by  
law, a license to sell liquor, beer, and wine at retail (an  
all-beverages license) in accordance with the provisions of  
this code and the rules of the department may be issued to  
any person who is approved by the department as a fit and  
proper person to sell such beverages, except that the number  
of all-beverages licenses that the department may issue for  
premises situated within incorporated cities and  
incorporated towns and within a distance of 5 miles from the  
corporate limits of such cities and towns shall be the  
number of over-quota all-beverages licenses issued as of

December 31, 1982, plus the number determined on the basis  
of population prescribed in 16-4-502 as follows:

(a) ~~(i) in 1983, not more than two retail licenses in~~  
incorporated towns of 500 inhabitants or less and within a  
distance of 5 miles from the corporate limits of such towns;

~~(ii) in 1984, not more than two retail licenses in~~  
~~incorporated towns of 450 inhabitants or less and within a~~  
~~distance of 5 miles from the corporate limits of such towns;~~

~~(iii) in 1985, not more than two retail licenses in~~  
~~incorporated towns of 405 inhabitants or less and within a~~  
~~distance of 5 miles from the corporate limits of such towns;~~

~~(iv) in 1986, not more than two retail licenses in~~  
~~incorporated towns of 365 inhabitants or less and within a~~  
~~distance of 5 miles from the corporate limits of such towns;~~

~~(v) in 1987, not more than two retail licenses in~~  
~~incorporated towns of 329 inhabitants or less and within a~~  
~~distance of 5 miles from the corporate limits of such towns;~~

~~(vi) in 1988, not more than two retail licenses in~~  
~~incorporated towns of 296 inhabitants or less and within a~~  
~~distance of 5 miles from the corporate limits of such towns;~~

~~(vii) in 1989, not more than two retail licenses in~~  
~~incorporated towns of 266 inhabitants or less and within a~~  
~~distance of 5 miles from the corporate limits of such towns;~~

~~(viii) in 1990, not more than two retail licenses in~~  
~~incorporated towns of 239 inhabitants or less and within a~~

1 distance of 5 miles from the corporate limits of such towns;  
 2 (ix) in 1991, not more than two retail licenses in  
 3 incorporated towns of 216 inhabitants or less and within a  
 4 distance of 5 miles from the corporate limits of such towns;  
 5 (x) in 1992, not more than two retail licenses in  
 6 incorporated towns of 194 inhabitants or less and within a  
 7 distance of 5 miles from the corporate limits of such towns;  
 8 (b) (i) in 1983, in incorporated cities or  
 9 incorporated towns of more than 500 inhabitants and not over  
 10 3,000 inhabitants and within a distance of 5 miles from the  
 11 corporate limits of such cities and towns, three retail  
 12 licenses for the first 1,000 inhabitants and one retail  
 13 license for each additional 1,000 inhabitants;  
 14 (ii) in 1984, in incorporated cities or incorporated  
 15 towns of more than 450 inhabitants and not over 2,700  
 16 inhabitants and within a distance of 5 miles from the  
 17 corporate limits of such cities and towns, three retail  
 18 licenses for the first 900 inhabitants and one retail  
 19 license for each additional 900 inhabitants;  
 20 (iii) in 1985, in incorporated cities or incorporated  
 21 towns of more than 405 inhabitants and not over 2,430  
 22 inhabitants and within a distance of 5 miles from the  
 23 corporate limits of such cities and towns, three retail  
 24 licenses for the first 810 inhabitants and one retail  
 25 license for each additional 810 inhabitants;

1 (ix) in 1986, in incorporated cities or incorporated  
 2 towns of more than 365 inhabitants and not over 2,187  
 3 inhabitants and within a distance of 5 miles from the  
 4 corporate limits of such cities and towns, three retail  
 5 licenses for the first 729 inhabitants and one retail  
 6 license for each additional 729 inhabitants;  
 7 (x) in 1987, in incorporated cities or incorporated  
 8 towns of more than 329 inhabitants and not over 1,968  
 9 inhabitants and within a distance of 5 miles from the  
 10 corporate limits of such cities and towns, three retail  
 11 licenses for the first 656 inhabitants and one retail  
 12 license for each additional 656 inhabitants;  
 13 (xi) in 1988, in incorporated cities or incorporated  
 14 towns of more than 296 inhabitants and not over 1,771  
 15 inhabitants and within a distance of 5 miles from the  
 16 corporate limits of such cities and towns, three retail  
 17 licenses for the first 590 inhabitants and one retail  
 18 license for each additional 590 inhabitants;  
 19 (xii) in 1989, in incorporated cities or incorporated  
 20 towns of more than 266 inhabitants and not over 1,594  
 21 inhabitants and within a distance of 5 miles from the  
 22 corporate limits of such cities and towns, three retail  
 23 licenses for the first 531 inhabitants and one retail  
 24 license for each additional 531 inhabitants;  
 25 (xiii) in 1990, in incorporated cities or incorporated



1 towns of more than 239 inhabitants and not over 1,435  
 2 inhabitants and within a distance of 5 miles from the  
 3 corporate limits of such cities and towns, three retail  
 4 licenses for the first 478 inhabitants and one retail  
 5 license for each additional 478 inhabitants;

6 (ix) in 1991, in incorporated cities or incorporated  
 7 towns of more than 216 inhabitants and not over 1,291  
 8 inhabitants and within a distance of 5 miles from the  
 9 corporate limits of such cities and towns, three retail  
 10 licenses for the first 430 inhabitants and one retail  
 11 license for each additional 430 inhabitants;

12 (x) in 1992, in incorporated cities or incorporated  
 13 towns of more than 194 inhabitants and not over 1,162  
 14 inhabitants and within a distance of 5 miles from the  
 15 corporate limits of such cities and towns, three retail  
 16 licenses for the first 378 inhabitants and one retail  
 17 license for each additional 378 inhabitants;

18 (c) (i) in 1983, in incorporated cities of over 3,000  
 19 inhabitants and within a distance of 5 miles from the  
 20 corporate limits thereof, five retail licenses for the first  
 21 3,000 inhabitants and one retail license for each additional  
 22 1,500 inhabitants;

23 (iii) in 1984, in incorporated cities of over 2,700  
 24 inhabitants and within a distance of 5 miles from the  
 25 corporate limits thereof, five retail licenses for the first

1 2,700 inhabitants and one retail license for each additional  
 2 1,350 inhabitants;

3 (iii) in 1985, in incorporated cities of over 2,430  
 4 inhabitants and within a distance of 5 miles from the  
 5 corporate limits thereof, five retail licenses for the first  
 6 2,430 inhabitants and one retail license for each additional  
 7 1,215 inhabitants;

8 (iv) in 1986, in incorporated cities of over 2,187  
 9 inhabitants and within a distance of 5 miles from the  
 10 corporate limits thereof, five retail licenses for the first  
 11 2,187 inhabitants and one retail license for each additional  
 12 1,094 inhabitants;

13 (v) in 1987, in incorporated cities of over 1,968  
 14 inhabitants and within a distance of 5 miles from the  
 15 corporate limits thereof, five retail licenses for the first  
 16 1,968 inhabitants and one retail license for each additional  
 17 984 inhabitants;

18 (vi) in 1988, in incorporated cities of over 1,771  
 19 inhabitants and within a distance of 5 miles from the  
 20 corporate limits thereof, five retail licenses for the first  
 21 1,771 inhabitants and one retail license for each additional  
 22 886 inhabitants;

23 (vii) in 1989, in incorporated cities of over 1,594  
 24 inhabitants and within a distance of 5 miles from the  
 25 corporate limits thereof, five retail licenses for the first

1 1,524 inhabitants and one retail license for each additional  
2 797 inhabitants;

3 (viii) in 1990, in incorporated cities of over 1,435  
4 inhabitants and within a distance of 5 miles from the  
5 corporate limits thereof, five retail licenses for the first  
6 1,435 inhabitants and one retail license for each additional  
7 717 inhabitants;

8 (ix) in 1991, in incorporated cities of over 1,291  
9 inhabitants and within a distance of 5 miles from the  
10 corporate limits thereof, five retail licenses for the first  
11 1,291 inhabitants and one retail license for each additional  
12 646 inhabitants;

13 (x) in 1992, in incorporated cities of over 1,162  
14 inhabitants and within a distance of 5 miles from the  
15 corporate limits thereof, five retail licenses for the first  
16 1,162 inhabitants and one retail license for each additional  
17 581 inhabitants;

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

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

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

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

22 (5) ~~At the~~ In 1983, the number of retail  
23 all-beverages licenses that the department may issue for use  
24 at premises situated outside of any incorporated city or  
25 incorporated town and outside of the area within a distance

1 of 5 miles from the corporate limits thereof may not be more  
2 than one license for each 750 population of the county after  
3 excluding the population of incorporated cities and  
4 incorporated towns in such county.

5 (b) In 1984, the population limit referred to in  
6 subsection (5)(a) is decreased to 675.

7 (c) In 1985, the population limit referred to in  
8 subsection (5)(a) is decreased to 608.

9 (d) In 1986, the population limit referred to in  
10 subsection (5)(a) is decreased to 547.

11 (e) In 1987, the population limit referred to in  
12 subsection (5)(a) is decreased to 492.

13 (f) In 1988, the population limit referred to in  
14 subsection (5)(a) is decreased to 443.

15 (g) In 1989, the population limit referred to in  
16 subsection (5)(a) is decreased to 392.

17 (h) In 1990, the population limit referred to in  
18 subsection (5)(a) is decreased to 359.

19 (i) In 1991, the population limit referred to in  
20 subsection (5)(a) is decreased to 323.

21 (j) In 1992, the population limit referred to in  
22 subsection (5)(a) is decreased to 291."

23 Section 2. Section 16-4-501, MCA, is amended to read:

24 "16-4-501. License and permit fees. (1) Each beer  
25 licensee licensed to sell either beer or table wine only, or

1 both beer and table wine, under the provisions of this code,  
2 shall pay an annual license fee as follows:

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

6 (b) each beer wholesaler, \$400; each table wine  
7 distributor, \$400;

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

10 (d) for a license to sell beer at retail for  
11 off-premises consumption only, the same as a retail beer  
12 license; for a license to sell table wine at retail for  
13 off-premises consumption only, either alone or in  
14 conjunction with beer, \$200;

15 (e) any unit of a nationally chartered veterans'  
16 organization, \$50.

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

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

24 (4) Passenger carrier licenses shall be issued upon  
25 payment by the applicant of an annual license fee in the sum

1 of \$300.

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

5 (6) The annual fee for resort retail liquor licenses  
6 within a given resort area shall be \$2,000 for each license.

7 (7) Each licensee licensed under ~~the--quotes--of~~  
8 16-4-201 shall pay an annual license fee as follows:

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

15 (b) except as hereinafter provided, for each license  
16 in incorporated cities with a population of more than 2,000  
17 and less than 5,000 or within a distance of 5 miles thereof,  
18 measured over the shortest public road or highway from the  
19 nearest entrance of the premises to be licensed to the  
20 nearest boundary of such city, \$350 for a unit of a  
21 nationally chartered veterans' organization and \$500 for all  
22 other licensees;

23 (c) except as hereinafter provided, for each license  
24 in incorporated cities with a population of more than 5,000  
25 and less than 10,000 or within a distance of 5 miles

1 thereof, measured over the shortest public road or highway  
2 from the nearest entrance of the premises to be licensed to  
3 the nearest boundary of such city, \$500 for a unit of a  
4 nationally chartered veterans' organization and \$650 for all  
5 other licensees;

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

13 (e) the distance of 5 miles from the corporate limits  
14 of any incorporated cities and incorporated towns is  
15 measured over the shortest public road or highway from the  
16 nearest entrance of the premises to be licensed to the  
17 nearest boundary of such city or town; and where the  
18 premises of the applicant to be licensed are situated within  
19 5 miles of the corporate boundaries of two or more  
20 incorporated cities or incorporated towns of different  
21 populations, the license fee chargeable by the larger  
22 incorporated city or incorporated town applies and shall be  
23 paid by the applicant. When the premises of the applicant to  
24 be licensed are situated within an incorporated town or  
25 incorporated city and any portion of the incorporated town

1 or incorporated city is without a 5-mile limit, the license  
2 fee chargeable by the smaller incorporated town or  
3 incorporated city applies and shall be paid by the  
4 applicant.

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

15 (g) The fee for one all-beverage license to a public  
16 airport shall be \$800. This license is nontransferable.

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

20 ~~NEW SECTION.~~ Section 3. License to be issued on the  
21 basis of highest bid. (1) An all-beverages license for  
22 on-premises consumption shall be issued by the department of  
23 revenue based upon the highest bid selection method  
24 specified in [section 4] whenever more than one qualified  
25 applicant applies for a license made available due to a

1 population increase within a quota area under the provisions  
2 of 16-4-502 or due to an increase in the number of licenses  
3 for a given population under the provisions of 16-4-201.

4 (2) The department shall insure that the highest  
5 bidding selection method is conducted in a public manner  
6 with at least three witnesses who are not applicants or  
7 public employees.

8 (3) The highest bidding selection shall take place  
9 within 15 days after completion of the hearing process  
10 provided for in 16-4-207.

11 (4) The results of the bidding conducted in accordance  
12 with this section are final.

13 ~~NEW SECTION.~~ Section 4. Conduct of the bidding system  
14 -- minimum bid. (1) The department shall institute a  
15 procedure for the competitive bidding system provided for in  
16 [section 3] as follows:

17 (a) Qualified applicants shall be notified of the time  
18 and place that competitive bidding for a license will occur.

19 (b) Only qualified applicants may participate in the  
20 bidding process.

21 (c) The director of the department or his designated  
22 representative shall conduct the bidding process.

23 (d) Except as provided in subsection (2), a license  
24 shall be awarded to the highest qualified bidder.

25 (2) The minimum bid for an original license to be

located in areas described in 16-4-501(7)(d) is \$20,000. The minimum bid for an original license to be located in any other area is \$10,000.

~~NEW SECTION.~~ Section 5. Proceeds of bidding process.

(1) Except as provided in subsection (2), the amount paid for the issuance of a new all-beverages license in excess of the minimum bid provided for in [section 4] shall be distributed equally to the holders of all-beverages licenses in the quota area where the new license is issued.

(2) (a) A licensee whose all-beverages license was issued after [the effective date of this act] may not share in a distribution.

(b) A licensee whose all-beverages license is transferred into a quota area under 16-4-204(b) may not share in the distribution.

(3) The amount received by a licensee under subsection (1) may not exceed the amount bid and paid for the first all-beverages license sold in the quota area under [sections 3 and 4].

(4) The amount collected by the department in excess of the maximum distribution allowed under subsection (3) must be deposited in the general fund.

~~NEW SECTION.~~ Section 6. Liquor quota to end in absence of minimum price bids. (1) The limitation contained in title 16, chapter 4, part 2, on the number of

all-beverages licenses that may be issued for premises situated in a quota area shall no longer apply when there are no qualified bidders who are willing to pay the minimum price for an all-beverages license set forth in [section 4(2)].

(2) If the limitations contained in title 16, chapter 4, part 2, no longer apply to a quota area pursuant to subsection (1), the department shall issue an all-beverages license to an otherwise qualified applicant willing to pay the minimum price set forth in [section 4(2)] without limitation.

Section 6. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of the department may be issued to any person who is approved by the department as a fit and proper person to sell such beverages, except that the number of all-beverages licenses that the department may issue for premises situated within 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:

(a) in incorporated towns of 500 inhabitants or less

1 and within a distance of 5 miles from the corporate limits  
 2 of such towns, not more than two retail licenses;  
 3 (b) in incorporated cities or incorporated towns of  
 4 more than 500 inhabitants and not over 3,000 inhabitants and  
 5 within a distance of 5 miles from the corporate limits of  
 6 such cities and towns, three retail licenses for the first  
 7 1,000 inhabitants and one retail license for each additional  
 8 1,000 inhabitants;  
 9 (c) in incorporated cities of over 3,000 inhabitants  
 10 and within a distance of 5 miles from the corporate limits  
 11 thereof, five retail licenses for the first 3,000  
 12 inhabitants and one retail license for each additional 1,500  
 13 inhabitants;  
 14 (d) the number of the inhabitants in such cities and  
 15 towns, exclusive of the number of inhabitants residing  
 16 within a distance of 5 miles from the corporate limits  
 17 thereof, shall govern the number of retail licenses that may  
 18 be issued for use within such cities and towns and within a  
 19 distance of 5 miles from the corporate limits thereof; if  
 20 two or more incorporated municipalities are situated within  
 21 a distance of 5 miles from each other, the total number of  
 22 retail licenses that may be issued for use in both of such  
 23 municipalities and within a distance of 5 miles from their  
 24 respective corporate limits shall be determined on the basis  
 25 of the combined populations of both of such municipalities

1 and may not exceed the foregoing limitations; the distance  
 2 of 5 miles from the corporate limits of any incorporated  
 3 city or incorporated town shall be measured over the  
 4 shortest public road or highway from the nearest entrance of  
 5 the premises proposed for licensing to the nearest corporate  
 6 boundary of the city or town;  
 7 (3) Retail all beverages licenses of issue on March 7,  
 8 1947, and which are in excess of the foregoing limitations  
 9 shall be renewable, but no new licenses may be issued in  
 10 violation of such limitations;  
 11 (4) Such limitations do not prevent the issuance of a  
 12 nontransferable and nonassignable (as to ownership only)  
 13 retail license to any post office of a nationally chartered  
 14 veterans' organization or any lodge of a recognized national  
 15 fraternal organization if such veterans' or fraternal  
 16 organization has been in existence for a period of 5 years  
 17 or more prior to January 1, 1949;  
 18 (5) The number of retail all beverages licenses that  
 19 the department may issue for use at premises situated  
 20 outside of any incorporated city or incorporated town and  
 21 outside of the area within a distance of 5 miles from the  
 22 corporate limits thereof may not be more than one license  
 23 for each 750 population of the county after excluding the  
 24 population of incorporated cities and incorporated towns in  
 25 such county."

Section 7. Section 16-4-204, MCA, is amended to read:

"16-4-204. Contents of license -- posting -- privilege -- catering endorsement -- transfer -- expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of the department or to any peace officer of the state of Montana.

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

(3) A license may be transferred to the executor or administrator of the estate of any deceased licensee when

such estate consists in whole or in part of the business of selling liquor under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(5) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to



1 person or location shall be effective unless and until  
 2 approved by the department, and any licensee or transferee  
 3 or proposed transferee who operates or attempts to operate  
 4 under any supposedly transferred license prior to the  
 5 approval of such transfer by the department, endorsed upon  
 6 the license in writing, shall be considered as operating  
 7 without a license and the license affected may be revoked or  
 8 suspended by the department. The department may, within its  
 9 discretion, permit a qualified purchaser to operate the  
 10 business to be transferred pending final approval, providing  
 11 the application for transfer has been filed with the  
 12 department.

13 (b) Except as provided in subsection (b)(1), a  
 14 license may be transferred to a new ownership and to a  
 15 location outside the quota area for which it was originally  
 16 issued only when the following criteria are met:

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

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

24 (iii) the department finds, after a public hearing,  
 25 that the public convenience and necessity would be served by

1 such a transfer.

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

10 (c) For 5 years after the transfer of a license  
 11 between quota areas under subsection (b)(1), the license may  
 12 not be mortgaged or pledged as security and may not be  
 13 transferred to another person except for a transfer by  
 14 inheritance upon the death of the licensee. A license  
 15 transferred between quota areas under this section may be  
 16 held only by natural persons for 5 years following the  
 17 transfer. For the purpose of this section, natural persons  
 18 shall not include limited partnerships or other business  
 19 entities of any kind in which each natural person is not a  
 20 full participant in the ownership and operation of the  
 21 business authorized by the license.

22 (d) Once a license is transferred to a new quota area  
 23 under subsection (b)(1), it may not be transferred to  
 24 another quota area or back to the original quota area.

25 (f)(51) (a) Any all-beverage licensee is, upon the

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

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

11 (c) A written application for each event for which the  
 12 licensee intends to provide catering services, the written  
 13 approval of the catering application by the sponsor of the  
 14 special event, and a fee of \$40 must be filed with the  
 15 department at least 10 days prior to the event and shall  
 16 describe the location of the premises where the event is to  
 17 be held, the nature of the event, and the period during  
 18 which the event is to be held. An all-beverage licensee who  
 19 holds an endorsement granted under this subsection ~~(7)~~ **(6)**  
 20 may not receive approval to cater an event of which he is  
 21 the sponsor. The catered event must be within 100 miles of  
 22 the licensee's regular place of business. If obtained, the  
 23 licensee shall display in a prominent place on those  
 24 premises, the written approval from the department for each  
 25 event which is catered pursuant to this subsection.

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

5 (e) The sale of alcoholic beverages pursuant to a  
 6 catering endorsement is subject to the provisions of  
 7 16-6-103.

8 (f) The sale of alcoholic beverages pursuant to a  
 9 catering endorsement is subject to the provisions of  
 10 16-3-306, unless entities named in 16-3-306 give their  
 11 written approval.

12 ~~(9)~~ **(11)** Except as above provided, no license shall be  
 13 transferred or sold nor shall it be used for any place of  
 14 business not described in the license; provided, however,  
 15 that such license may be subject to mortgage and other valid  
 16 liens, in which event the name of the mortgagee, upon  
 17 application to and approval of the department, must be  
 18 endorsed on the license.

19 ~~(9)~~ **(8)** All licenses shall expire at midnight of June  
 20 30 of each year."

21 HERE IS A NEW MCA SECTION THAT READS:

22 Section 8. All-beverage license as privilege -- not  
 23 property. A license issued or renewed under the provisions  
 24 of [sections 6 and 7] is a privilege and not a property  
 25 right, and such licensing is an exercise of the police power

1 of the state for the protection of the public health,  
2 welfare, and safety.

3 **NEW\_SECTION.** Section 9. Codification instruction.  
4 Sections 3 through 6 5 are intended to be codified as an  
5 integral part of Title 16, chapter 4, and the provisions of  
6 Title 16, chapter 4, apply to sections 3 through 6 5.

7 **NEW\_SECTION.** Section 10. Effective and termination  
8 dates. (1) Except as provided in subsection (3), this act is  
9 effective on passage and approval.

10 ~~(2)--The amendments to 16-4-201 contained in section--1~~  
11 ~~terminate on December 31, 1992.~~

12 ~~(3)(2)~~ Sections 7 6 and 8 I are effective January 1,  
13 1993.

-End-