

SENATE BILL NO. 439

INTRODUCED BY HAGER, NORMAN

BY REQUEST OF THE SENATE PUBLIC HEALTH,
WELFARE AND SAFETY COMMITTEE

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Business and Industry.
	Rereferred to Committee on Public Health, Welfare and Safety.
February 18, 1983	Committee recommend bill do pass. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Local Government.
March 24, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in.

IN THE SENATE

March 28, 1983	Returned to Senate with amendments.
April 8, 1983	Second reading, amendments not concurred in.
April 11, 1983	On motion Free Conference Committee requested and appointed.
April 19, 1983	Free Conference Committee reported. Second reading, report adopted.
April 20, 1983	Third reading, report adopted. Free Conference Committee report adopted by House. Sent to enrolling. Reported correctly enrolled.

1 Agate BILL NO. 439
2 INTRODUCED BY Wagner Norman
3 BY REQUEST OF THE SENATE PUBLIC HEALTH,
4 WELFARE, AND SAFETY COMMITTEE
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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE COUNTIES
7 TO ENACT ORDINANCES DEFINING AREAS WHERE ALCOHOLIC BEVERAGES
8 MAY OR MAY NOT BE SOLD; REMOVING THE PROHIBITION AGAINST THE
9 ISSUANCE OF A RETAIL ALCOHOLIC BEVERAGE LICENSE TO A
10 BUSINESS LOCATED WITHIN 600 FEET OF A SCHOOL OR CHURCH;
11 AMENDING SECTION 16-3-309, MCA; AND REPEALING SECTION
12 16-3-306, MCA."
13

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

15 Section 1. Section 16-3-309, MCA, is amended to read:

16 "16-3-309. Sales prohibited by ordinance. (1) The
17 ~~counties,~~ cities, and incorporated towns may enact
18 ordinances defining certain areas in the ~~counties,~~ cities,
19 and towns where alcoholic beverages may or may not be sold.

20 (2) No ~~county,~~ incorporated city, or incorporated town
21 may by ordinance restrict the number of licenses that the
22 department may issue."

23 ~~NEW SECTION.~~ Section 2. Repealer. Section 16-3-306,
24 MCA, is repealed.

-End-

INTRODUCED BILL
SB 439

Rereferred and
Approved by Committee
on Public Health, Welfare
& Safety

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-End-

SECOND READING
SB 439

1 Senate BILL NO. 439
2 INTRODUCED BY Senator Norman

3 BY REQUEST OF THE SENATE PUBLIC HEALTH,
4 WELFARE, AND SAFETY COMMITTEE
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-End-

THIRD READING

SB 439

HOUSE COMMITTEE ON LOCAL GOVERNMENT

AMENDMENTS TO
SENATE BILL 439

March 24, 1983

Third reading copy (blue)

BE AMENDED AS FOLLOWS:

1. Title, line 7.
Following: line 6
Insert: ", CITIES, AND TOWNS"
2. Title, line 8.
Following: "SOLD"
Strike: "; REMOVING"
Insert: "BY VARYING THE"
3. Title, line 11.
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 16-3-306 AND"
Following: "MCA;"
Strike: "AND REPEALING SECTION"
4. Title, line 12.
Strike: line 12 in its entirety

5. Page 1.

Following: line 14

Insert: "Section 1. Section 16-3-306, MCA, is amended to read:

"16-3-306. Proximity to churches and schools restricted. (1) Except as provided in subsections (2) and, (3), and (4), no retail license may be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance shall be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's licensing authority.

(2) However, the department may renew a license for any establishment located in violation of this section if the licensee does not relocate his entrances any closer than the existing entrances and if the establishment:

(a) was located on the site before the place of worship or school opened; or

(b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937.

(3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption.

(4) The governing body of a county, for that area of the county not within the corporate limits of a city or town, or the governing body of an incorporated city or town may

provide general exceptions that would reduce or eliminate the 600-foot rule in subsection (1). The exception must be adopted by ordinance, except if a county does not have general purpose ordinance making powers it must be adopted by resolution. The ordinance or resolution must specify the reason why an exception is necessary and the distance in feet that applies within the county or the city or town limits."

Renumber: subsequent section

6. Page 1, line 16.

Following: "(1)"

Strike: "The"

Insert: "As provided in 16-3-306, the"

6. Page 1, line 18.

Following: "counties"

Insert: "not within the limits of a city or town"

7. Page 1.

Following: line 22

Insert: "(3) An ordinance as used in subsection (1) means a resolution if a county does not have the power to enact general purpose ordinances."

8. Page 1, lines 23 and 24.

Strike: section 2 in its entirety

April 18, 1983

FREE CONFERENCE COMMITTEE
SENATE BILL 439
(Report No. 1)

Mr. President:

We, your Free Conference Committee on Senate Bill 439, met and considered:

Senate Bill 439, third reading copy (Blue); and
House Local Government Committee amendments dated March 24, 1983.

We respectfully recommend as follows:

That the Senate accede to House Local Government Committee amendments 1, 3 through 5 and 8;

That the House recede from House Local Government Committee amendments 2, 6 (both), and 7;

That Senate Bill 439 be further amended as specified in Clerical Instructions 1 through 11; and

That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON):

1. Title, line 8.

Strike: "BY"

2. Title, line 9.

Following: line 8

Strike: "VARYING"

Insert: "THAT SUPPLANTS"

3. Page 2, line 16.

Following: "(4)"

Strike: "The" through "limits." on line 1 page 3

Insert: "Subsection (1) does not apply within the applicable jurisdiction of a local government that has supplanted the provisions of subsection (1) as provided in 16-3-309."

4. Page 3, line 3.

Strike: "AS"

5. Page 3, line 4.

Following: line 3

Strike: "PROVIDED IN 16-3-306, THE counties, cities, and"
Insert: "An"

6. Page 3, line 5.

Following: line 4

Strike: "towns"

Insert: "city"

Following: "enact"

Strike: "ordinances"

Insert: "an ordinance"

Following: "in"

Strike: "the"

7. Page 3, line 6.

Strike: line 6 in its entirety

8. Page 3, line 7.

Following: line 6

Strike: "and towns"

Insert: "its incorporated limits"

9. Page 3.

Following: line 7

Insert: "(2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where alcoholic beverages may or may not be sold.

(3) In enacting such an ordinance or resolution, the county or city may provide that the provisions of 16-3-306(1) do not apply within the jurisdictional area of the ordinance or resolution. If a county or city has supplanted the provisions of 16-3-306(1), upon request of the department the governing body of the county or city must certify to the department whether or not the person or individual identified in the request may lawfully sell alcoholic beverages under the terms of the ordinance or resolution. The department is bound by the determination set forth in the certification."

10. Page 3, line 8.

Following: line 7

Strike: "(2)"

Insert: "(4)"

Following: "county"

Strike: "or"

Insert: "or"

Following: "city"

Strike: "or incorporated town"

11. Page 3, lines 11 through 13.

Strike: subsection (3) in its entirety

FOR THE SENATE

Hager
HAGER, CHAIR

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MARBUT

Norman
NORMAN

FOR THE HOUSE

Kathleen McBride
MCBRIDE, CHAIR

Fabrega
FABREGA

Kadas
KADAS

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Chairman

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

SECTION 1. SECTION 16-3-306, MCA, IS AMENDED TO READ:

"16-3-306. Proximity to churches and schools restricted. (1) Except as provided in subsections (2) and (3) ~~of this code~~, no retail license may be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance shall be measured in a straight line from the center of the nearest entrance of the

place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's licensing authority.

(2) However, the department may renew a license for any establishment located in violation of this section if the licensee does not relocate his entrances any closer than the existing entrances and if the establishment:

(a) was located on the site before the place of worship or school opened; or

(b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937.

(3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption.

~~(4) The governing body of a county, for that area of the county not within the corporate limits of a city or town, or the governing body of an incorporated city or town may provide general exceptions that would reduce or eliminate the 600-foot rule in subsection (1). The exception must be adopted by ordinance; except if a county does not have general purpose ordinance-making powers, it must be adopted by resolution. The ordinance or resolution must specify the reason why an exception is necessary and the distance in feet that applies within the county or the city~~

1 ~~or town limits."~~

2 Section 2. Section 16-3-309, MCA, is amended to read:

3 "16-3-309. Sales prohibited by ordinance. (1) ~~THE AS~~
4 ~~PROVIDED IN 16-3-306, THE COUNTIES,~~ cities, and incorporated
5 towns may enact ordinances defining certain areas in the
6 ~~COUNTIES NOT WITHIN THE LIMITS OF A CITY OR TOWN,~~ cities,
7 and towns where alcoholic beverages may or may not be sold.

8 (2) No ~~COUNTY,~~ incorporated city, or incorporated town
9 may by ordinance restrict the number of licenses that the
10 department may issue.

11 ~~(3) AN ORDINANCE AS USED IN SUBSECTION (1) MEANS A~~
12 ~~RESOLUTION IF A COUNTY DOES NOT HAVE THE POWER TO ENACT~~
13 ~~GENERAL PURPOSE ORDINANCES."~~

14 ~~NEW SECTION--Section 2--Repeater--Section--16-3-306,~~

15 ~~MCA--is repeated.~~

-End-

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worship or as a school other than a commercially operated or
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straight line from the center of the nearest entrance of the

place of worship or school to the nearest entrance of the
licensee's premises. This section is a limitation upon the
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any establishment located in violation of this section if
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the existing entrances and if the establishment:

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worship or school opened; or

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sale of beer, table wine, or both in the original package
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the county not within the corporate limits of a city or
town or the governing body of an incorporated city or town
may provide general exceptions that would reduce or
eliminate the 600-foot rule in subsection (1). The exception
must be adopted by ordinance except if a county does not
have general purpose ordinance-making power; it must be
adopted by resolution. The ordinance or resolution must
specify the reason why an exception is necessary and the
distance in feet that applies within the county or the city~~

~~or town limits~~ SUBSECTION (1) DOES NOT APPLY WITHIN THE
 APPLICABLE JURISDICTION OF A LOCAL GOVERNMENT THAT HAS
 SUPPLANTED THE PROVISIONS OF SUBSECTION (1) AS PROVIDED IN
 16-3-309."

Section 2. Section 16-3-309, MCA, is amended to read:

"16-3-309. Sales prohibited by ordinance. (1) The ~~as~~
~~PROVIDED IN 16-3-309~~ ~~the counties~~ cities and AN
 incorporated towns CITY may enact ordinances AN ORDINANCE
 defining certain areas in the ~~counties~~ ~~NOT WITHIN THE LIMITS~~
~~OF A CITY OR TOWN~~ cities and towns ITS INCORPORATED LIMITS
 where alcoholic beverages may or may not be sold.

(2) A COUNTY MAY ENACT AN ORDINANCE OR RESOLUTION
 DEFINING CERTAIN AREAS IN THE COUNTY, NOT WITHIN THE
 INCORPORATED LIMITS OF A CITY, WHERE ALCOHOLIC BEVERAGES MAY
 OR MAY NOT BE SOLD.

(3) IN ENACTING SUCH AN ORDINANCE OR RESOLUTION, THE
 COUNTY OR CITY MAY PROVIDE THAT THE PROVISIONS OF
 16-3-306(1) DO NOT APPLY WITHIN THE JURISDICTIONAL AREA OF
 THE ORDINANCE OR RESOLUTION. IF A COUNTY OR CITY HAS
 SUPPLANTED THE PROVISIONS OF 16-3-306(1), UPON REQUEST OF
 THE DEPARTMENT THE GOVERNING BODY OF THE COUNTY OR CITY MUST
 CERTIFY TO THE DEPARTMENT WHETHER OR NOT THE PERSON OR
 INDIVIDUAL IDENTIFIED IN THE REQUEST MAY LAWFULLY SELL
 ALCOHOLIC BEVERAGES UNDER THE TERMS OF THE ORDINANCE OR
 RESOLUTION. THE DEPARTMENT IS BOUND BY THE DETERMINATION SET

FORTH IN THE CERTIFICATION.

(2)(4) No county OR incorporated city or
 incorporated town may by ordinance restrict the number of
 licenses that the department may issue.

~~(2) AN ORDINANCE AS USED IN SUBSECTION (1) MEANS A~~
~~RESOLUTION IF A COUNTY DOES NOT HAVE THE POWER TO ENACT~~
~~GENERAL PURPOSE ORDINANCES.~~

NEW SECTION -- Section 2 -- Repeater -- Section 16-3-309
 MCA is repealed

-End-