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.

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MCA, is repealed.

1 2 INTRODUCED BY _ BY REQUEST OF THE SENATE PUBLIC HEALTH. 3 WELFARE, AND SAFETY COMMITTEE 5 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 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: 14 Section 1. Section 16-3-309, MCA, is amended to read: 15 *16-3-309. Sales prohibited by ordinance. (1) The 16 counties: cities: and incorporated towns may enact 17 ordinances defining certain areas in the counties: cities: 18 and towns where alcoholic beverages may or may not be sold. 19 (2) No county. Incorporated citys or incorporated town 20 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.

LC 1407/01

Rereferred and

Approved by Committee on Public Health, Welfare & Safety

Sprate BILL NO. 439

INTRODUCED BY

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WELFARE, AND SAFETY COMMITTEE

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A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE COUNTIES
TO ENACT ORDINANCES DEFINING AREAS WHERE ALCOHOLIC BEVERAGES
MAY OR MAY NOT BE SOLD; REMOVING THE PROHIBITION AGAINST THE
ISSUANCE OF A RETAIL ALCOHOLIC BEVERAGE LICENSE TO A
BUSINESS LOCATED WITHIN 600 FEET OF A SCHOOL OR CHURCH;
AMENDING SECTION 16-3-309+ MCA; AND REPEALING SECTION

12 16-3-306, MCA."

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

15 Section 1. Section 16-3-309, HCA, is amended to read:
16 *16-3-309. Sales prohibited by ordinance. (1) The
17 <u>counties</u> cities and incorporated towns may enact
18 ordinances defining certain areas in the <u>counties</u> cities.

and towns where alcoholic beverages may or may not be sold.

(2) No countys incorporated citys or incorporated town may by ordinance restrict the number of licenses that the department may issue."

23 NEW_SECTIONs Section 2. Repealer. Section 16-3-306, 24 MCA, is repealed.

48th Legislature

1 2 BY REQUEST OF THE SENATE PUBLIC HEALTH. 3 WELFARE, AND SAFETY COMMITTEE

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A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE COUNTIES 7 TO ENACT ORDINANCES DEFINING AREAS WHERE ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SOLD; REMOVING THE PROHIBITION AGAINST THE 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.*

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MCA, is repealed.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-3-309, MCA, is amended to read: *16-3-309. Sales prohibited by ordinance. (1) The counties: cities: and incorporated towns may enact ordinances defining certain areas in the counties cities. and towns where alcoholic beverages may or may not be sold. (2) No countys incorporated citys or incorporated town may by ordinance restrict the number of licenses that the

department may issue." NEW_SECTION: Section 2. Repealer. Section 16-3-306.

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

There is "Subjection (1) does not apply within the applicab

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

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

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STATE PURISHING CO. HEIENA MONTANA

6. Page 3, line 5. Following: line 4 Strike: "towns" Insert: "city" Following: "enact" Strike: "ordinances" Insert: "an ordinance" Following: "in" Strike: "the"

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7. Page 3, line 6. Strike: line 6 it 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

(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: ","
Insert: "or"
Following: "city"
Strike: ", or incorporated town"

11. Page 3, lines 11 through 13. Strike: subsection (3) in its entirety

STATE PUB. CO.

Chairman.

Chairman

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FOR THE SENATE

FOR THE HOUSE

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SB 0439/02

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SENATE BILL NO. 439

INTRODUCED BY HAGER, NORMAN

BY REQUEST OF THE SENATE PUBLIC HEALTH,

HELFARE, AND SAFETY COMMITTEE

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ARth Legislature

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE COUNTIES, CITIES, AND TOWNS TO FNACT ORDINANCES DEFINING AREAS WHERE ALCOHOLIC SEVERAGES MAY OR MAY NOT BE SOLD;—REMOVING BY YARYING THE PROHIBITION AGAINST THE ISSUANCE OF A RETAIL ALCOHOLIC BEVERAGE LICENSE TO A BUSINESS LOCATED WITHIN 600 FEET OF A SCHOOL OR CHURCH; AMENDING SECTIONS 16-3-306, MCA;—AND-REPEALING-SECTION—16-3-306, MCA;—AND-REPEALING-SECTION—16-3-30

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

SECTION 1: SECTION 16-3-306: MCA: IS AMENDED TO BEAD:
#16-3-306. Proximity to churches and schools
restricted. (1) Except as provided in subsections (2) and
#37 tirough_141. No retail license may be issued pursuant to
this code to any business or enterprise whose premises are
#ithin 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:
- B (a) was located on the site before the place of9 worship or school opened; or
- 10 (b) was located in a bona fide hotel, restaurant, or 11 fraternal organization building at the site since January 1, 12 1937.
- 13 (3) Subsection (1) does not apply to licenses for the 14 sale of beer, table wine, or both in the original package 15 for off-premises consumption.
- 16 (4) The governing body of a county, for that area of 17 the county not within the corporate limits of a city or 18 town. or the governing body of an incorporated city or town 19 may_provide _qeneral_exceptions__that _would__reduce__or 20 eliminate the 600-foot rule in subsection (11. The exception 21 must be adopted by ordinance; except if a county does not 22 have reneral purpose ordinance-making powers. it must be 23 advoted by resolution. The ordinance or resolution must 24 specify_the_reason_why_an_exception_is_necessary_and_the

distance in feet that applies within the county or the city

SB 0439/02

1	Qr_tomo_limitsa"
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 HITHIN 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 citys 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 IE A COUNTY DOES NOT HAVE THE POWER TO ENACT
13	GENERAL_PURPOSE_ORDINANCES.*
14	MEH-SECTION*Section-2*Repealer*Section16-3-306
15	HEAy-is-repeated≠

48th Legislature SB 0439/03 SB 0439/03

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z	INTRODUCED BY HAGER, NORMAN
3	BY REQUEST OF THE SENATE PUBLIC HEALTH,
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6	A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE COUNTIES.
7	CITIES. AND IDWNS TO ENACT ORDINANCES DEFINING AREAS WHERE
8	ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SOLD REMOVENS AY
9	WARYING THAT SUPPLANT THE PROMIBITION AGAINST THE ISSUANCE
10	OF A RETAIL ALCOHOLIC BEVERAGE LICENSE TO A BUSINESS LICATED
11	WITHIN 600 FEET OF A SCHOOL OR CHURCH; AMENDING SEETION
12	SECTIONS 16-3-306 AND 16-3-309. MCA+-AND-REPEALING-SECTION
13	16-3-306MCA.=
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	SECTION 1. SECTION 16-3-306: MCA: IS AMENDED TO READ:
17	*16-3-306. Proximity to churches and schools
18	restricted. (1) Except as provided in subsections (2) and
19	(3) through (4), no retail license may be issued pursuant to
20	this code to any business or enterprise whose premises are
21	within 600 feet of and on the same street as a building used
22	exclusively as a church, synagogue, or other place of
23	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

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1 place of worship or school to the nearest entrance of the 2 licensee's premises. This section is a limitation upon the 3 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 Ŷ worship or school opened; or 10 (b) was located in a bona fide hotel, restaurant, or 11 fraternal organization building at the site since January 1, 1937. 12 13 (3) Subsection (1) does not apply to licenses for the 14 sale of bear, table wine, or both in the original package 15 for off-premises consumption. 16 141 The governing body of a county for that -- area -- of 17 the __county__not__within__the__corporate_limits-of-o-city-or 18 town-or-the-governing-body-of-an-incorporated-city-or--town 19 max===provide===general==exceptions==thot==would==reduce==or 23 plimingto-the-680-foot-rule-in-subsection-flts-The-exception 21 must-be-udopted-by-ordingneet-except-if-a--county--does--not 22 howar-general-rouspose--ordinance-making-roowersx-it-must-se 23 <u>adosted_by=resolution===fb==ordinance==or==resolution==must</u>

specify::the::reason::why::on-exception-is-necessory-ond-the

distance in feet that applies within the county or the city

SB 0439703

- or-town-finites SUBSECTION (1) DOES NOT APPLY HITHIN THE 1 APPLICABLE JURISDICTION OF A LOCAL GOVERNMENT THAT HAS 3 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 49 PROVIDED-IN-16-3-206--INE countings cities, and AN incorporated terms CITY may enact ordinances AN ORDINANCE 9 defining certain areas in the counties NOT-NITHIN-THE-LIMITS
- 12 121 A COUNTY MAY ENACT AN ORDINANCE OR RESOLUTION 13 DEFINING CERTAIN AREAS IN THE COUNTY, NOT WITHIN THE INCORPORATED LIMITS OF A CITY. WHERE ALCOHOLIC BEYERAGES MAY 14 15 OR MAY NOT BE SOLD.

where alcoholic beverages may or may not be sold.

<u> BE-A-EIFY-BR-TOWN</u> cities and towns IIS_INCORPORATED_LIMIIS

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16 131 IN ENACTING SUCH AN ORDINANCE OR RESOLUTION. THE 17 COUNTY OR CITY MAY PROVIDE THAT THE PROVISIONS OF 18 16-3-306(1) DO NOT APPLY WITHIN THE JURISDICTIONAL AREA OF 19 THE ORDINANCE OR RESOLUTION. IF A COUNTY OR CITY HAS SUPPLANTED THE PROVISIONS OF 16-3-306(1). UPON REQUEST OF 20 21 THE DEPARTMENT THE GOVERNING BODY OF THE COUNTY OR CITY MUST 22 CERTIFY TO THE DEPARTMENT WHETHER OR NOT THE PERSON OR 23 INDIVIDUAL IDENTIFIED IN THE REQUEST MAY LAWFULLY SELL 24 ALCOHOLIC REVERAGES UNDER THE TERMS OF THE DRDINANCE OR 25

RESOLUTION. THE DEPARTMENT IS ROUND BY THE DETERMINATION SET

FORTH IN THE CERTIFICATION. 2 (2)(4) No countys OR incorporated citys or incorporated-town may by ordinance restrict the number of 3 licenses that the department may issue. 5 #31--AH-ORO INANEE-AS-USEO-IN--SUBSECTION--- #21-- MEANS--A RESOLUTION--IE--A--COUNTY--BOSS--NOT-MAYE-THE-POWER-TO-CHAEI GENERAL-PURPOSE-ORDINANCES-" NEW-SECTION --- Section-2--- Repeater --- Section--- 16-3-396v

-End-

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