

SENATE BILL NO. 450

Introduced: 02/16/83

Referred to Committee on Taxation: 02/16/83

Hearing: 2/19/83

Report: 02/19/83

2nd Reading: 02/22/83

3rd Reading: 02/23/83

Transmitted to House: 02/23/83

Referred to Committee on Business & Industry: 02/28/83

Hearing: 3/17/83

Died in House Committee.

*Senate* BILL NO. *450*

INTRODUCED BY *Casper Hager Dave Elbert*

*Clark Ray McGuire Balliga Blaylock Hartung*  
*Foley Bergeson Alcala K. Robinson Van Dine Dine*  
 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING *Menahan*

RESTAURANT ALL-BEVERAGES LIQUOR LICENSE OUTSIDE THE EXISTING  
 LIQUOR QUOTA SYSTEM; CANCELING AN EXISTING ALL-BEVERAGES  
 LIQUOR LICENSE WHEN A RESTAURANT ALL-BEVERAGES LIQUOR  
 LICENSE IS ISSUED; AMENDING SECTION 16-4-501, MCA."

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

**NEW SECTION.** Section 1. Restaurant all-beverages  
 license. (1) The department shall issue an all-beverages  
 license to be known as a restaurant all-beverages license  
 whenever:

(a) the applicant is otherwise qualified to own an  
 all-beverages license;

(b) the applicant operates a restaurant at the  
 location where the restaurant all-beverages license will be  
 used or satisfies the department that he intends to open a  
 restaurant at a specified location and that the restaurant  
 all-beverages license will be used in conjunction with that  
 restaurant; and

(c) the owner of an existing all-beverages license  
 from an over-quota area agrees to allow the department to  
 cancel his license if the restaurant all-beverages license

is issued.

(2) For purposes of this section, "restaurant" means  
 space in a building maintained, advertised, and held out to  
 the public as a place where individually priced meals are  
 prepared and served primarily for on-premises consumption  
 and where the primary source of revenue from the operation  
 is from the sale of food and not from the sale of alcoholic  
 beverages. This means that the building must have a dining  
 room or rooms, a kitchen, and the number and kinds of  
 employees necessary for the preparing, cooking, and serving  
 of meals in order to satisfy the department that the space  
 is intended for use as a full-service restaurant.

(3) The department must cancel an existing  
 all-beverages license from an over-quota area  
 contemporaneously with the issuance of a restaurant  
 all-beverages license in any quota area.

(4) The restaurant all-beverages license may be sold  
 by the licensee only in conjunction with the sale of the  
 restaurant to which its use is connected.

(5) The department shall issue a restaurant  
 all-beverages license to a qualified applicant regardless of  
 the number of all-beverages licenses already issued within  
 an all-beverages license quota area in which the restaurant  
 is located. The restaurant all-beverages license may not be  
 used in determining the number of all-beverages licenses in

1 a quota area under either 16-4-201 or 16-4-204.  
 2 (b) Under a restaurant all-beverages license,  
 3 alcoholic beverages may be sold in the dining room or rooms  
 4 and may also be sold in an area within the restaurant that  
 5 is used primarily for the sale of alcoholic beverages and is  
 6 separate from the dining room or rooms. Alcoholic beverages  
 7 may not be sold for off-premises consumption under a  
 8 restaurant all-beverages license.  
 9 Section 2. Section 16-4-501, MCA, is amended to read:  
 10 "16-4-501. License and permit fees. (1) Each beer  
 11 licensee licensed to sell either beer or table wine only, or  
 12 both beer and table wine, under the provisions of this code,  
 13 shall pay an annual license fee as follows:  
 14 (a) each brewer, wherever located, whose product is  
 15 sold or offered for sale within the state, \$500; for each  
 16 storage depot, \$400;  
 17 (b) each beer wholesaler, \$400; each table wine  
 18 distributor, \$400;  
 19 (c) each beer retailer, \$200; with a wine license  
 20 amendment, an additional \$200;  
 21 (d) for a license to sell beer at retail for  
 22 off-premises consumption only, the same as a retail beer  
 23 license; for a license to sell table wine at retail for  
 24 off-premises consumption only, either alone or in  
 25 conjunction with beer, \$200;

1 (a) any unit of a nationally chartered veterans'  
 2 organization, \$50.  
 3 (2) The permit fee under 16-4-301(1) is computed at  
 4 the rate of \$15 a day for each day beer and table wine are  
 5 sold at those events lasting 2 or more days but in no case  
 6 be less than \$30.  
 7 (3) The permit fee under 16-4-301(2) is \$10 for the  
 8 sale of beer and table wine only or \$20 for the sale of all  
 9 alcoholic beverages.  
 10 (4) Passenger carrier licenses shall be issued upon  
 11 payment by the applicant of an annual license fee in the sum  
 12 of \$300.  
 13 (5) The annual license fee for a license to sell wine  
 14 on the premises, when issued as an amendment to a beer-only  
 15 license, is \$200.  
 16 (6) The annual fee for resort retail liquor licenses  
 17 within a given resort area shall be \$2,000 for each license.  
 18 (7) Each licensee licensed under the quotas of  
 19 16-4-201 shall pay an annual license fee as follows:  
 20 (a) except as hereinafter provided, for each license  
 21 outside of incorporated cities and incorporated towns or in  
 22 incorporated cities and incorporated towns with a population  
 23 of less than 2,000, \$250 for a unit of a nationally  
 24 chartered veterans' organization and \$400 for all other  
 25 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 incorporated city applies and shall be paid by the applicant.

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

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

~~(9) An applicant for the issuance of a restaurant~~

1 ~~all-beverages license shall pay a one-time original license~~  
 2 ~~fee of \$50,000 for any such license issued. The owner of the~~  
 3 ~~existing all-beverages license from an area over quota that~~  
 4 ~~is canceled as a condition of the issuance of a restaurant~~  
 5 ~~all-beverages license shall receive \$40,000 of the \$50,000~~  
 6 ~~paid by the new licensee. The annual fee for a restaurant~~  
 7 ~~all-beverages license is \$800.~~

8 (9)(10) The license fees herein provided for are  
 9 exclusive of and in addition to other license fees  
 10 chargeable in Montana for the sale of alcoholic beverages."

11 NEW SECTION. Section 3. Codification instruction.  
 12 Section 1 is intended to be codified as an integral part of  
 13 Title 16, chapter 4, part 2, and the provisions of Title 16,  
 14 chapter 4, part 2, apply to section 1.

-End-

Approved by committee  
on Taxation

1 *Senate* BILL NO. *450*  
2 INTRODUCED BY *Casper Hager Dore Ellis*  
3 *Bob Ray Mahoney Halligan Ray/och Hartney*  
4 *Felix Bergsten Winald K. Coleman V. Volkman Dore*  
5 A BILL FOR AN ACT ENTITLED "AN ACT ESTABLISHING  
6 RESTAURANT ALL-BEVERAGES LIQUOR LICENSE OUTSIDE THE EXISTING  
7 LIQUOR QUOTA SYSTEM; CANCELING AN EXISTING ALL-BEVERAGES  
8 LIQUOR LICENSE WHEN A RESTAURANT ALL-BEVERAGES LIQUOR  
9 LICENSE IS ISSUED; AMENDING SECTION 16-4-501, MCA."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 NEW SECTION. Section 1. Restaurant all-beverages  
12 license. (1) The department shall issue an all-beverages  
13 license to be known as a restaurant all-beverages license  
14 whenever:  
15 (a) the applicant is otherwise qualified to own an  
16 all-beverages license;  
17 (b) the applicant operates a restaurant at the  
18 location where the restaurant all-beverages license will be  
19 used or satisfies the department that he intends to open a  
20 restaurant at a specified location and that the restaurant  
21 all-beverages license will be used in conjunction with that  
22 restaurant; and  
23 (c) the owner of an existing all-beverages license  
24 from an over-quota area agrees to allow the department to  
25 cancel his license if the restaurant all-beverages license

1 is issued.  
2 (2) For purposes of this section, "restaurant" means  
3 space in a building maintained, advertised, and held out to  
4 the public as a place where individually priced meals are  
5 prepared and served primarily for on-premises consumption  
6 and where the primary source of revenue from the operation  
7 is from the sale of food and not from the sale of alcoholic  
8 beverages. This means that the building must have a dining  
9 room or rooms, a kitchen, and the number and kinds of  
10 employees necessary for the preparing, cooking, and serving  
11 of meals in order to satisfy the department that the space  
12 is intended for use as a full-service restaurant.  
13 (3) The department must cancel an existing  
14 all-beverages license from an over-quota area  
15 contemporaneously with the issuance of a restaurant  
16 all-beverages license in any quota area.  
17 (4) The restaurant all-beverages license may be sold  
18 by the licensee only in conjunction with the sale of the  
19 restaurant to which its use is connected.  
20 (5) The department shall issue a restaurant  
21 all-beverages license to a qualified applicant regardless of  
22 the number of all-beverages licenses already issued within  
23 an all-beverages license quota area in which the restaurant  
24 is located. The restaurant all-beverages license may not be  
25 used in determining the number of all-beverages licenses in

1 a quota area under either 16-4-201 or 16-4-204.

2 (6) Under a restaurant all-beverages license,  
3 alcoholic beverages may be sold in the dining room or rooms  
4 and may also be sold in an area within the restaurant that  
5 is used primarily for the sale of alcoholic beverages and is  
6 separate from the dining room or rooms. Alcoholic beverages  
7 may not be sold for off-premises consumption under a  
8 restaurant all-beverages license.

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

10 "16-4-501. License and permit fees. (1) Each beer  
11 licensee licensed to sell either beer or table wine only, or  
12 both beer and table wine, under the provisions of this code,  
13 shall pay an annual license fee as follows:

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

17 (b) each beer wholesaler, \$400; each table wine  
18 distributor, \$400;

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

21 (d) for a license to sell beer at retail for  
22 off-premises consumption only, the same as a retail beer  
23 license; for a license to sell table wine at retail for  
24 off-premises consumption only, either alone or in  
25 conjunction with beer, \$200;

1 (a) any unit of a nationally chartered veterans'  
2 organization, \$50.

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

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

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

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

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

18 (7) Each licensee licensed under the quotas of  
19 16-4-201 shall pay an annual license fee as follows:

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

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

24 (e) the distance of 5 miles from the corporate limits  
25 of any incorporated cities and incorporated towns is

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2 nearest entrance of the premises to be licensed to the  
3 nearest boundary of such city or town; and where the  
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5 5 miles of the corporate boundaries of two or more  
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 13 Title 16, chapter 4, part 2, and the provisions of Title 16,  
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-End-

## SENATE BILL NO. 450

INTRODUCED BY CRIPPEN, HAGER, TOWE, ELLIOTT, ECK,  
REGAN, MAZUREK, HALLIGAN, BLAYLOCK, KEATING, FAGG,  
BENGTSON, WINSLOW, KITSELMAN, VAN VALKENBURG,  
MENAHAN, DOVER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A  
RESTAURANT ALL-BEVERAGES LIQUOR LICENSE OUTSIDE THE EXISTING  
LIQUOR QUOTA SYSTEM; CANCELING AN EXISTING ALL-BEVERAGES  
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4 a quota area under either 15-4-201 or 16-4-204.

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21 distributor, \$400;

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5 organization, \$50.

6 (2) The permit fee under 16-4-301(1) is computed at  
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21 (7) Each licensee licensed under the quotas of  
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25 incorporated cities and incorporated towns with a population

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2 chartered veterans' organization and \$400 for all other  
3 licensees;

4 (b) except as hereinafter provided, for each license  
5 in incorporated cities with a population of more than 2,000  
6 and less than 5,000 or within a distance of 5 miles thereof,  
7 measured over the shortest public road or highway from the  
8 nearest entrance of the premises to be licensed to the  
9 nearest boundary of such city, \$350 for a unit of a  
10 nationally chartered veterans' organization and \$500 for all  
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25 nationally chartered veterans' organization and \$800 for all

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2 (e) the distance of 5 miles from the corporate limits  
3 of any incorporated cities and incorporated towns is  
4 measured over the shortest public road or highway from the  
5 nearest entrance of the premises to be licensed to the  
6 nearest boundary of such city or town; and where the  
7 premises of the applicant to be licensed are situated within  
8 5 miles of the corporate boundaries of two or more  
9 incorporated cities or incorporated towns of different  
10 populations, the license fee chargeable by the larger  
11 incorporated city or incorporated town applies and shall be  
12 paid by the applicant. When the premises of the applicant to  
13 be licensed are situated within an incorporated town or  
14 incorporated city and any portion of the incorporated town  
15 or incorporated city is without a 5-mile limit, the license  
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20 license to be located in areas described in subsection (d)  
21 of this subsection shall pay a one-time original license fee  
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23 fee of \$20,000 shall not apply to any transfer or renewal of  
24 a license duly issued prior to July 1, 1974. All licenses,  
25 however, are subject to the annual renewal fee.

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

~~(9) An applicant for the issuance of a restaurant all-beverages license shall pay a one-time original license fee of NOT LESS THAN \$50,000 for any such license issued. The ONE-TIME LICENSE FEE SHALL BE DISTRIBUTED AS FOLLOWS: \$10,000 TO THE LOCAL GOVERNMENT OF THE OVER QUOTA AREA IN WHICH THE CANCELED ALL-BEVERAGE LICENSE IS LOCATED AND THE BALANCE, WHICH MAY NOT BE LESS THAN \$40,000, TO THE owner of the existing all-beverages license from an area over quota that is canceled as a condition of the issuance of a restaurant all-beverages license shall receive \$40,000 of the \$50,000 paid by the new licensee. The annual fee for a restaurant all-beverages license is \$800.~~

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

~~NEW SECTION.~~ Section 3. Codification instruction. Section 1 is intended to be codified as an integral part of Title 16, chapter 4, part 2, and the provisions of Title 16, chapter 4, part 2, apply to section 1.

-End-