

HOUSE BILL NO. 201

1/16 Introduced
1/16 Referred to Business & Labor
1/17 Fiscal Note Requested
1/23 Hearing
1/23 Fiscal Note Received
Died in Committee

1 HOUSE BILL NO. 201
2 INTRODUCED BY Ramirez [Signature] [Signature]
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENLARGE THE
5 POPULATION BASE FOR BEER AND ALL-BEVERAGES LICENSES IN AND
6 NEAR INCORPORATED CITIES AND TOWNS; AMENDING SECTIONS
7 16-4-105, 16-4-201, AND 16-4-502, MCA; AND PROVIDING AN
8 EFFECTIVE DATE AND AN APPLICABILITY DATE."
9

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

11 Section 1. Section 16-4-105, MCA, is amended to read:

12 "16-4-105. Limit on retail beer licenses -- wine
13 license amendments -- off-premises consumption. (1) Except
14 as otherwise provided by law, a license to sell beer at
15 retail or beer and wine at retail, in accordance with the
16 provisions of this code and the rules of the department, may
17 be issued to any person, firm, or corporation who is
18 approved by the department as a fit and proper person, firm,
19 or corporation to sell beer, except that:

20 (a) the number of retail beer licenses that the
21 department may issue for premises situated within
22 incorporated cities and incorporated towns and within a
23 distance of 5 miles from the corporate limits of such cities
24 and towns shall be determined on the basis of population
25 prescribed in 16-4-502 as follows:

1 (i) in incorporated towns of 500 inhabitants or less
2 and within a distance of 5 miles from the corporate limits
3 of such towns, not more than one retail beer license, which
4 may not be used in conjunction with a retail all-beverages
5 license;

6 (ii) in incorporated cities or incorporated towns of
7 more than 500 inhabitants and not over 2,000 inhabitants and
8 within a distance of 5 miles from the corporate limits of
9 such cities or towns, one retail beer license for each 500
10 inhabitants, which may not be used in conjunction with
11 retail all-beverages licenses;

12 (iii) in incorporated cities of over 2,000 inhabitants
13 and within a distance of 5 miles from the corporate limits
14 of such cities, four retail beer licenses for the first
15 2,000 inhabitants, two additional retail beer licenses for
16 the next 2,000 inhabitants or major fraction thereof, and
17 one additional retail beer license for each additional 2,000
18 inhabitants, which may not be used in conjunction with
19 retail all-beverages licenses;

20 (b) the number of the inhabitants in such cities and
21 towns, ~~exclusive of~~ together with the number of inhabitants
22 residing within a distance of 5 miles from the corporate
23 limits thereof, shall govern the number of retail beer
24 licenses that may be issued for use within such cities and
25 towns and within a distance of 5 miles from the corporate

1 limits thereof. If two or more incorporated municipalities
 2 are situated within a distance of 5 miles from each other,
 3 the total number of retail beer licenses that may be issued
 4 for use in both of such municipalities and within a distance
 5 of 5 miles from their respective corporate limits shall be
 6 determined on the basis of the combined populations of both
 7 of such municipalities and of the area within a distance of
 8 5 miles from their respective corporate limits and may not
 9 exceed the foregoing limitations. The distance of 5 miles
 10 from the corporate limits of any incorporated city or
 11 incorporated town shall be measured in a straight line from
 12 the nearest entrance of the premises proposed for licensing
 13 to the nearest corporate boundary of such city or town.

14 (c) retail beer licenses of issue on March 7, 1947,
 15 and which are in excess of the foregoing limitations shall
 16 be renewable, but no new licenses may be issued in violation
 17 of such limitations;

18 (d) such limitations do not prevent the issuance of a
 19 nontransferable and nonassignable retail beer license to a
 20 post of a nationally chartered veterans' organization or a
 21 lodge of a recognized national fraternal organization if
 22 such veterans' or fraternal organization has been in
 23 existence for a period of 5 years or more prior to January
 24 1, 1949;

25 (e) the number of retail beer licenses that the

1 department may issue for use at premises situated outside of
 2 any incorporated city or incorporated town and outside of
 3 the area within a distance of 5 miles from the corporate
 4 limits thereof or for use at premises situated within any
 5 unincorporated town shall be as determined by the department
 6 in the exercise of its sound discretion, except that no
 7 retail beer license may be issued for any premises so
 8 situated unless the department determines that the issuance
 9 of such license is required by public convenience and
 10 necessity.

11 (2) A person holding a license to sell beer for
 12 consumption on the premises at retail may apply to the
 13 department for an amendment to the license permitting the
 14 holder to sell wine as well as beer. The division may issue
 15 such amendment if it finds, on a satisfactory showing by the
 16 applicant, that the sale of wine for consumption on the
 17 premises would be supplementary to a restaurant or
 18 prepared-food business. A person holding a beer-and-wine
 19 license may sell wine for consumption on or off the
 20 premises. Nonretention of the beer license, for whatever
 21 reason, shall mean automatic loss of the wine amendment
 22 license.

23 (3) A retail license to sell beer or table wine, or
 24 both, in the original packages for off-premises consumption
 25 only may be issued to any person, firm, or corporation who

1 is approved by the department as a fit and proper person,
 2 firm, or corporation to sell beer or table wine, or both,
 3 and whose premises proposed for licensing are operated as a
 4 bona fide grocery store or a drugstore licensed as a
 5 pharmacy. The number of such licenses that the department
 6 may issue is not limited by the provisions of subsection (1)
 7 of this section but shall be determined by the department in
 8 the exercise of its sound discretion, and the department may
 9 in the exercise of its sound discretion grant or deny any
 10 application for any such license or suspend or revoke any
 11 such license for cause."

12 Section 2. Section 16-4-201, MCA, is amended to read:

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

25 (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 (2) The number of the inhabitants in such cities and
 15 towns, ~~exclusive of~~ together with the number of inhabitants
 16 residing within a distance of 5 miles from the corporate
 17 limits thereof, shall govern the number of retail licenses
 18 that may be issued for use within such cities and towns and
 19 within a distance of 5 miles from the corporate limits
 20 thereof. If two or more incorporated municipalities are
 21 situated within a distance of 5 miles from each other, the
 22 total number of retail licenses that may be issued for use
 23 in both of such municipalities and within a distance of 5
 24 miles from their respective corporate limits shall be
 25 determined on the basis of the combined populations of both

1 of such municipalities and of the area within a distance of
 2 5 miles from their respective corporate limits and may not
 3 exceed the foregoing limitations. The distance of 5 miles
 4 from the corporate limits of any incorporated city or
 5 incorporated town shall be measured in a straight line from
 6 the nearest entrance of the premises proposed for licensing
 7 to the nearest corporate boundary of the city or town.

8 (3) Retail all-beverages licenses of issue on March 7,
 9 1947, and which are in excess of the foregoing limitations
 10 shall be renewable, but no new licenses may be issued in
 11 violation of such limitations.

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

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

1 such county and the population residing within a distance of
 2 5 miles from the corporate limits thereof."

3 Section 3. Section 16-4-502, MCA, is amended to read:
 4 "16-4-502. Census. (1) The census taken under the
 5 direction of congress shall be the basis upon which the
 6 respective populations of the counties and incorporated
 7 cities or towns shall be determined. However, in the
 8 interim between censuses, the department shall use as such
 9 basis the most recent population estimates published by the
 10 bureau of the census, United States department of commerce.

11 (2) The number of inhabitants residing within a
 12 distance of 5 miles from the corporate limits of a city or
 13 town, for purposes of 16-4-105 and 16-4-201, must be
 14 estimated from the number of inhabitants counted in the
 15 appropriate census tracts or enumeration districts in the
 16 most recent federal decennial census, beginning with the
 17 1980 census. The university of Montana bureau of business
 18 and economic research shall compile these estimates after
 19 each decennial census and furnish them to the department
 20 within 6 months from the date that the results of the census
 21 are available, except that estimates based on the 1980
 22 census must be furnished to the department on or before
 23 December 31, 1985."

24 NEW SECTION. Section 4. Effective date --
 25 applicability date. This act is effective on passage and

LC 0597/01

- 1 approval and applies to beer and all-beverages licenses
- 2 issued after June 30, 1986.

-End-

STATE OF MONTANA

REQUEST NO. FNN 127-85

FISCAL NOTE

Form BD-15

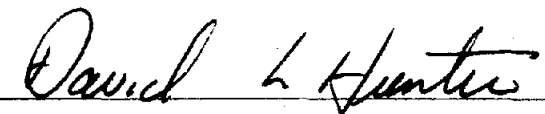
In compliance with a written request received January 19 19 85, there is hereby submitted a Fiscal Note for H.B. 201 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

An act to enlarge the population base for beer and all-beverages licenses in and near incorporated cities and towns.

ASSUMPTIONS:

1. The population of the area between the city limits of an incorporated city or town, and the 5 mile limit specified under the proposed law is one half (50%) of the population of the respective incorporated city or town (based on Montana Census and Economic Information Center data).
2. Under the new law, Beer Retail License purchasers will pay a \$400 fee to sell wine as well as beer.
3. Estimates are based on 1980 census.
4. New Beer Retail and Liquor licenses that become available in areas where quotas have not been met under the current law will not be issued.
5. The state will participate in a PL94171 Block program to establish the population base around incorporated cities and towns.
6. Plotting populations with raw data over the six months specified under the new law will require a grade 15 step 2 FTE and necessary aerial photography and maps.
7. There is a \$100 processing fee on all new Beer Retail and Liquor Licenses.
8. Liquor and beer sales will be the same with or without the new law.
9. Assumes no cases will be contested.
10. Liquor Division Administrative processing costs will be \$663 per application.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 23, 1985

HB 201

EFFECT OF REVENUE BY SOURCE:

	FY 87 Estimated Increase
Liquor License Fee (7 Licenses)	\$147,600
Beer Retail License Fee (88 Licenses)	35,200
New License Processing Fee	<u>9,900</u>
Total Revenue to General Fund	\$192,700
Total Expenditures	<u>137,557</u>
Net Effect to General Fund	\$ 55,143

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

The impact on future revenue will depend on the number of people living within 5 miles of incorporated cities and towns, and the number of corresponding licenses issued.