

HOUSE BILL NO. 261

1/18 Introduced  
1/18 Referred to Business & Labor  
1/23 Hearing  
Died in Committee

1 HOUSE BILL NO. 261  
 2 INTRODUCED BY *Simon Celi Diana NATH*  
 3 *John B. ... Thomas W...*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE TRANSFER

5 OR PURCHASE AND TRANSFER OF UP TO 1 PERCENT OF EXISTING  
 6 ALL-BEVERAGES LIQUOR LICENSES EACH YEAR WITHOUT REGARD TO  
 7 ALL-BEVERAGES LICENSE QUOTAS; AMENDING SECTIONS 16-4-204,  
 8 16-4-207, AND 16-4-402 THROUGH 16-4-404, MCA."

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

11 Section 1. Section 16-4-204, MCA, is amended to read:  
 12 "16-4-204. Transfer -- catering endorsement. (1) (a)  
 13 Except as provided in section 6 and subsection (1)(b) of  
 14 this section, a license may be transferred to a new  
 15 ownership and to a location outside the quota area for which  
 16 it was originally issued only when the following criteria  
 17 are met:

- 18 (i) the total number of all-beverages licenses in the
- 19 original quota area exceeded the quota for that area by at
- 20 least 25% in the most recent census prescribed in 16-4-502;
- 21 (ii) the total number of all-beverages licenses in the
- 22 quota area to which the license would be transferred did not
- 23 exceed that area's quota in the most recent census
- 24 prescribed in 16-4-502:

25 (A) by more than 33%; or

1 (B) in an incorporated city of more than 10,000  
 2 inhabitants and within a distance of 5 miles from its  
 3 corporate limits by more than 43%; and

4 (iii) the department finds, after a public hearing,  
 5 that the public convenience and necessity would be served by  
 6 such a transfer.

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

15 (c) For 5 years after the transfer of a license  
 16 between quota areas under subsection (1)(a), the license may  
 17 not be mortgaged or pledged as security and may not be  
 18 transferred to another person except for a transfer by  
 19 inheritance upon the death of the licensee.

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

23 (2) (a) Any all-beverages licensee is, upon the  
 24 approval and in the discretion of the liquor division,  
 25 entitled to a catering endorsement to his all-beverages



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 \$35 must be filed with the  
13 department at least 3 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-beverages licensee who  
17 holds an endorsement granted under this subsection (2) may  
18 not receive approval to cater an event of which he is the  
19 sponsor. The catered event must be within 100 miles of the  
20 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 and the  
3 local law enforcement agency that has jurisdiction over the  
4 premises where the event is to be held.

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 Section 2. Section 16-4-207, MCA, is amended to read:

13 "16-4-207. Notice of application -- publication --  
14 protest. (1) When an application has been filed with the  
15 department for a license to sell alcoholic beverages at  
16 retail or to transfer such license, except a license  
17 transferred under [section 6], the department shall promptly  
18 publish in a newspaper of general circulation in the city,  
19 town, or county from which the application comes a notice  
20 that such applicant has made application for such license  
21 and that protests against the issuance of a license to the  
22 applicant may be mailed to a named administrator in the  
23 department of revenue within 10 days after the final notice  
24 is published. Notice of application for a new license shall  
25 be published once a week for 4 consecutive weeks. Notice of

1 application for transfer of a license shall be published  
2 once a week for 2 consecutive weeks. Notice may be  
3 substantially in the following form:

4 NOTICE OF APPLICATION FOR RETAIL

5 ALL-BEVERAGES LICENSE

6 Notice is hereby given that on the .... day of .....,  
7 19.., one (name of applicant) filed an application for a  
8 retail all-beverages license with the Montana department of  
9 revenue, to be used at (describe location of premises where  
10 beverages are to be sold), and protests, if any there be,  
11 against the issuance of such license may be mailed to .....,  
12 department of revenue, Helena, Montana, on or before the  
13 .... day of ....., 19...

14 Dated .... Signed .....

15 ADMINISTRATOR

16 (2) Each applicant shall, at the time of filing his  
17 application, pay to the department an amount sufficient to  
18 cover the costs of publishing the notice.

19 (3) If the administrator receives no written protests,  
20 the department may issue or transfer the license without  
21 holding a public hearing. If written protests against the  
22 issuance or transfer of the license are received, the  
23 department shall hold a public hearing at its office in  
24 Helena."

25 Section 3. Section 16-4-402, MCA, is amended to read:

1 "16-4-402. Application -- investigation. (1) Prior to  
2 the issuance or transfer of any license under this chapter,  
3 the applicant shall file with the department an application  
4 in writing, signed by the applicant and containing such  
5 information and statements relative to the applicant and the  
6 premises where the alcoholic beverage is to be sold as may  
7 be required by the department. The application shall be  
8 verified by the affidavit of the person making the same  
9 before a person authorized to administer oaths.

10 (2) Upon receipt of a completed application for a  
11 license under this code, accompanied by the necessary  
12 license fee or letter of credit as provided in  
13 16-4-501(7)(f), the department shall within 30 days make a  
14 thorough investigation of all matters pertaining thereto and  
15 shall determine whether such applicant is qualified to  
16 receive a license and his premises are suitable for the  
17 carrying on of the business and whether the requirements of  
18 this code and the rules promulgated by the department are  
19 met and complied with. This subsection does not apply to a  
20 catering endorsement provided in 16-4-204(7) or a special  
21 permit provided in 16-4-301.

22 (3) Upon proof that any applicant made a false  
23 statement in any part of the application, the application  
24 for the license may be denied, and if issued, the license  
25 may be revoked."

1 Section 4. Section 16-4-403, MCA, is amended to read:

2 "16-4-403. Fingerprints required of licensees and  
3 mortgagees. All applicants for issuance or transfer of a  
4 Montana retail all-beverages or beer license, including  
5 corporate officers and managers, may be required by the  
6 department when applying for said issuance or transfer of  
7 the license to have their fingerprints taken for use in  
8 determining the eligibility of the applicant for such  
9 license. This provision shall also apply to all who file a  
10 security interest against such license except as to banks,  
11 savings and loan institutions, and licensed lending  
12 agencies."

13 Section 5. Section 16-4-404, MCA, is amended to read:

14 "16-4-404. Protest period -- contents of license --  
15 posting -- privilege -- transfer -- expiration. (1) No  
16 license may be issued or transferred, except a license  
17 transferred under [section 6], until on or after the date  
18 set in the notice for hearing protests.

19 (2) Every license issued or transferred under this  
20 code shall set forth the name of the person to whom issued  
21 or transferred, the location, by street and number or other  
22 appropriate specific description of location if no street  
23 address exists, of the premises where the business is to be  
24 carried on under said license, and such other information as  
25 the department shall deem necessary. If the licensee is a

1 partnership or if more than one person has any interest in  
2 the business operated under the license, the names of all  
3 persons in the partnership or interested in the business  
4 must appear on the license. Every license must be posted in  
5 a conspicuous place on the premises wherein the business  
6 authorized under the license is conducted, and such license  
7 shall be exhibited upon request to any authorized  
8 representative of the department or to any peace officer of  
9 the state of Montana.

10 (3) Any license issued or transferred under the  
11 provisions of this code shall be considered a privilege  
12 personal to the licensee named in the license and shall be  
13 good until the expiration of the license unless sooner  
14 revoked or suspended.

15 (4) A license may be transferred to the executor or  
16 administrator of the estate of any deceased licensee when  
17 such estate consists in whole or in part of the business of  
18 selling liquor under a license, and in such event the  
19 license may descend or be disposed of with the business to  
20 which it is applicable under appropriate probate  
21 proceedings.

22 (5) In the event of a major loss or damage to licensed  
23 premises by unforeseen natural causes or in case of  
24 expiration of lease of the licensed premises or in the event  
25 of eviction or increase of rent by the landlord (in case of

1 rented licensed premises) or in case of proposed removal of  
 2 license to premises as substantially suited for the retail  
 3 liquor business as the premises vacated, the licensee may  
 4 apply to the department for a transfer of the license to  
 5 different premises. The department may in its discretion  
 6 permit a transfer in such cases if it appears to the  
 7 department that such a transfer is required to do justice to  
 8 the licensee applying for the transfer. The department  
 9 shall in no event nor for any cause permit a transfer to  
 10 different premises where the sanitary, health, and service  
 11 facilities are less satisfactory than such facilities which  
 12 exist or had existed at the premises from which the transfer  
 13 is proposed to be made.

14 (6) Upon a bona fide sale of the business operated  
 15 under any license, the license may be transferred to a  
 16 qualified purchaser. No transfer of any license as to  
 17 person or location shall be effective unless and until  
 18 approved by the department, and any licensee or transferee  
 19 or proposed transferee who operates or attempts to operate  
 20 under any supposedly transferred license prior to the  
 21 approval of such transfer by the department, endorsed upon  
 22 the license in writing, shall be considered as operating  
 23 without a license and the license affected may be revoked or  
 24 suspended by the department. The department may, within its  
 25 discretion, permit a qualified purchaser to operate the

1 business to be transferred pending final approval, providing  
 2 the application for transfer has been filed with the  
 3 department.

4 (7) Except as provided in subsections (2) through (6)  
 5 and of this section, 16-4-204, and [section 6], no license  
 6 shall be transferred or sold nor shall it be used for any  
 7 place of business not described in the license; provided,  
 8 however, that such license may be subject to mortgage and  
 9 other valid liens, in which event the name of the mortgagee,  
 10 upon application to and approval of the department, must be  
 11 endorsed on the license."

12 NEW SECTION. Section 6. Nonquota transfers of  
 13 all-beverages licenses. (1) Each year, a number of  
 14 all-beverages licenses issued under 16-4-201 equal to 1% of  
 15 the number of all-beverages licenses issued under 16-4-201  
 16 that are in existence on January 1 of that year may be  
 17 transferred as provided in this section to any location in  
 18 the state without regard to the provisions of 16-4-204.

19 (2) Applications for the right to transfer or purchase  
 20 and transfer an existing license must be made to the  
 21 department by the last day of February. An application may  
 22 be made whether or not the applicant holds an all-beverages  
 23 license issued under 16-4-201. A \$1,000 fee must be  
 24 included with the application if the applicant does not yet  
 25 own a license. The fee is \$100 if the applicant is applying

1 for transfer of a license he owns.

2 (3) The department shall investigate the applicants  
3 and, if the number of eligible applicants exceeds the number  
4 of licenses transferable under this section, hold a drawing  
5 to determine those eligible applicants that will be entitled  
6 to transfer or purchase and transfer an existing  
7 all-beverages license issued under 16-4-201 to any location  
8 in the state without regard to the provisions of 16-4-204.

9 (4) A successful applicant may, before the end of the  
10 year, transfer a license he owns, or purchase an existing  
11 license and transfer it, to any location in the state  
12 without regard to the provisions of 16-4-204.

13 (5) An unsuccessful applicant may reapply each  
14 succeeding year upon payment of a \$100 filing fee.

15 NEW SECTION. Section 7. Extension of authority. Any  
16 existing authority of the department of revenue to make  
17 rules on the subject of the provisions of this act is  
18 extended to the provisions of this act.

19 NEW SECTION. Section 8. Codification instruction.  
20 Section 6 is intended to be codified as an integral part of  
21 Title 16, chapters 1 through 6, and the provisions of Title  
22 16, chapters 1 through 6, apply to section 6.

-End-