

HOUSE BILL NO. 552

1/29 Introduced
1/29 Referred to Business & Labor
2/08 Hearing
Died in Committee

1 HOUSE BILL NO. 552
2 INTRODUCED BY *J. Brown, Fuller, Baskin - [Signature]*
3 *Christians*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE PROVISIONS
5 RELATING TO COUNTY LICENSURE OF TRANSIENT RETAIL MERCHANTS;
6 CLARIFYING THAT CERTAIN FARM OR RANCH AUCTIONS, SALES BY
7 LOCAL PRODUCERS OF GARDEN PRODUCE, AND LOCAL ARTISTS' SALES
8 ARE NOT REQUIRED TO BE LICENSED; REQUIRING A BOND FOR
9 LICENSURE; INCREASING THE LICENSE FEE; REQUIRING A STATEMENT
10 OF THE ORIGIN OF ARTICLES FOR SALE; INCREASING THE PENALTY;
11 AMENDING SECTIONS 7-21-2401, 7-21-2404, 7-21-2406,
12 7-21-2407, AND 7-21-2410, MCA; AND PROVIDING AN EFFECTIVE
13 DATE."

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

15 Section 1. Section 7-21-2401, MCA, is amended to read:
16 "7-21-2401. Definitions. As used in this part, unless
17 the context indicates otherwise, the following definitions
18 apply:
19

20 (1) "Temporary premises" means any hotel,
21 roominghouse, storeroom, building or part of any building,
22 tent, vacant lot, freight station, railroad car, automobile,
23 truck, trailer or trailer house, or public or quasi-public
24 place, temporarily occupied for such business as described
25 in subsection (2).

1 (2) "Transient retail merchant" means every person,
2 firm, or corporation acting for himself or itself or
3 representing any other person, firm, or corporation who or
4 which brings into temporary premises a stock of goods,
5 wares, articles of merchandise, notions, or other articles
6 of trade and who or which solicits, sells, offers to sell,
7 or exhibits for sale such stock of goods, wares, articles of
8 merchandise, notions, or other articles of trade at retail.
9 For the purposes of this part, the following are not
10 transient retail merchants:

11 (a) a farmer or rancher conducting at his farm or
12 ranch an auction of his own property;

13 (b) a resident of this state selling garden or
14 agricultural produce he has grown;

15 (c) an artist who is a resident of this state selling
16 art he has produced."

17 Section 2. Section 7-21-2404, MCA, is amended to read:
18 "7-21-2404. License required to do business as
19 transient retail merchant -- fee. The amount to be paid for
20 the license to conduct the business of a transient retail
21 merchant shall be the sum of \$5 \$25 for each week or
22 fraction thereof, to be paid in advance to the county
23 treasurer of the county in which such business is
24 conducted."

25 Section 3. Section 7-21-2406, MCA, is amended to read:



1 "7-21-2406. Application for transient retail merchant
 2 license. (1) Every transient retail merchant desiring to do
 3 business in any county of this state must, before commencing
 4 such business, file with the county treasurer of such
 5 county, on a form to be provided by such treasurer, an
 6 application in writing, subscribed and sworn to by such
 7 applicant before an officer in this state authorized to take
 8 oaths.

9 (2) The application shall set forth:

10 (a) name of applicant;

11 (b) his place of permanent residence;

12 (c) his local headquarters, if any;

13 (d) time of his arrival in the county;

14 (e) county from which last license, if any, received;

15 (f) whether acting as principal, agent, or employee;

16 (g) if acting as agent or employee, the name and place
 17 of business of his principal or employer;

18 (h) brief descriptive list of:

19 (i) the articles to be offered for sale and where such
 20 articles were obtained by the transient retail merchant; or

21 (ii) the services to be performed;

22 (i) whether payments or deposits of money are
 23 collected when orders are taken or in advance of final
 24 delivery;

25 (j) the number of weeks for which license is

1 requested.

2 (3) If the applicant is acting as an agent, the
 3 principal's acknowledgment of such agency must accompany the
 4 application as part of the application.

5 (4) At the time of filing the application, such
 6 transient retail merchant must accompany the application
 7 with the sum specified in 7-21-2404 as a license fee, except
 8 as provided in 7-21-2407."

9 NEW SECTION. Section 4. Bond required. (1) An
 10 applicant for a license under 7-21-2404 must post a surety
 11 bond in the sum of \$2,000, with the surety to be approved by
 12 the county treasurer. The bond must provide that the
 13 aggregate liability of the surety for all losses on the bond
 14 may not exceed the sum of the bond. The bond must remain in
 15 effect during the time the transient retail merchant is
 16 licensed and for a period of 6 months after licensure has
 17 lapsed.

18 (2) The bond required in subsection (1) must be
 19 conditioned on the transient merchant's compliance with all
 20 laws and with all material statements and representations
 21 made by or in behalf of him with reference to the
 22 merchandise sold or offered for sale or services to be
 23 rendered and on the faithful performance under all
 24 warranties made with reference to such merchandise or
 25 service.

1 Section 5. Section 7-21-2407, MCA, is amended to read:
2 "7-21-2407. Bond in lieu of license fee. (1) In lieu
3 of the license fee prescribed in 7-21-2404, every transient
4 retail merchant who files with the application required in
5 7-21-2406 an affidavit indicating bona fide intention to
6 become a permanent merchant and continue in business for a
7 period longer than 1 year shall, upon filing and approval of
8 the bond provided for in this section, receive from the
9 county treasurer a license permitting the conduct of such
10 business for a period of 1 year.
11 (2) Such bond shall be a surety bond in the penal sum
12 of ~~\$1,000~~ \$2,000 to said county treasurer.
13 (3) (a) The bond shall be executed by a surety company
14 licensed to do business in this state or by two responsible
15 freeholders residing in the county and whose names appear
16 upon the assessment roll of said county.
17 (b) In lieu of a bond meeting the requirements of
18 subsection (3)(a), the bond may be a cash bond of equal
19 amount.
20 (4) The bond shall be approved by said county
21 treasurer and conditioned upon the performance of the
22 intention to become a permanent merchant and continue in
23 business for a period longer than 1 year and to insure the
24 payment of license fees for the period such business is
25 actually conducted if not in fact a bona fide permanent

1 business. The bond shall be further conditioned upon the
2 delivery of goods ordered or sold in accordance with the
3 terms of such order or sale.
4 (5) Such bond shall remain in full force and effect
5 for a period of 6 months after the expiration of the 1-year
6 period."
7 Section 6. Section 7-21-2410, MCA, is amended to read:
8 "7-21-2410. License to be displayed in place of
9 business. (1) Every transient retail merchant doing business
10 under the provisions of this part shall at all times keep
11 said license conspicuously posted in said place of business.
12 (2) Any such transient retail merchant who shall fail
13 to post and keep posted his license as provided above is
14 guilty of a misdemeanor ~~and shall be fined not less than \$10~~
15 ~~or more than \$25 for each offense~~ and is punishable as
16 provided in 46-18-212."
17 NEW SECTION. Section 7. Codification instruction.
18 Section 4 is intended to be codified as an integral part of
19 Title 7, chapter 21, part 24, and the provisions of Title 7,
20 chapter 21, part 24, apply to section 4.
21 NEW SECTION. Section 8. Effective date. This act is
22 effective July 1, 1985.

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