

HOUSE BILL NO. 924  
INTRODUCED BY BARDANOUE  
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

February 25, 1985	Rules suspended to allow introduction.
February 26, 1985	Introduced and referred to Committee on Business and Labor.
February 27, 1985	Fiscal Note requested. Fiscal Note returned. Committee recommend bill do pass. Report adopted. On motion, rules suspended and bill placed on second reading this day. Second reading, do pass as amended. On motion, rules suspended and bill placed on third reading this day. Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Taxation.
April 10, 1985	Committee recommend bill be concurred in as amended. Report adopted.

April 12, 1985 Second reading, concurred in.

April 17, 1985 Third reading, concurred in.  
Ayes, 49; Noes, 0.

Returned to House with  
amendments.

IN THE HOUSE

April 18, 1985 Received from Senate.

April 19, 1985 Second reading, amendments not  
concurred in.

April 23, 1985 On motion, Free Conference  
Committee requested and  
appointed.

April 24, 1985 Free Conference Committee  
reported.

On motion, rules suspended and  
bill placed on second reading  
this day.

Second reading, Free Conference  
Committee report adopted.

Third reading, Free Conference  
Committee report adopted by  
Senate.

Sent to enrolling.

Reported correctly enrolled.

1                    HOUSE BILL NO. 924  
2    INTRODUCED BY Bartanow  
3                    BY REQUEST OF THE DEPARTMENT OF REVENUE  
4

5    A BILL FOR AN ACT ENTITLED:    "AN ACT CREATING RETAIL  
6    ALCOHOLIC BEVERAGES LICENSES IN EXCESS OF STATE QUOTA  
7    LIMITATIONS TO BE ISSUED TO TRIBAL ALCOHOLIC BEVERAGES  
8    LICENSEES DOING BUSINESS ON MONTANA INDIAN RESERVATIONS;  
9    AMENDING SECTIONS 16-4-105, 16-4-201, AND 16-4-204, MCA; AND  
10    PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY  
11    DATE."

12  
13            WHEREAS, on July 1, 1983, the United States Supreme  
14    Court rendered its opinion in the case entitled Rice,  
15    Director, Department of Alcoholic Beverage Control of  
16    California v. Rehner, and held that Congress had delegated  
17    authority to the states, as well as to Indian tribes, to  
18    regulate the use and distribution of alcoholic beverages in  
19    Indian country; and

20            WHEREAS, the Montana Alcoholic Beverage Code limits the  
21    number of all-beverages licenses available in corporate city  
22    and county quota areas and the number of on-premises  
23    consumption retail beer licenses available in corporate city  
24    quota areas; and

25            WHEREAS, the enforcement of Montana's alcoholic

1    beverages license quota creates a hardship on tribal  
2    alcoholic beverages licensees in quota areas where no state  
3    licenses are available.

4            THEREFORE, the Legislature of the State of Montana  
5    determines it appropriate to make available retail alcoholic  
6    beverages licenses in excess of state quota limitations to  
7    be issued to persons holding tribal alcoholic beverages  
8    licenses and doing business on Montana Indian reservations.

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

11            NEW SECTION. Section 1. Exception to limit on retail  
12    beer licenses -- tribal alcoholic beverages licensees. (1)  
13    Upon application and qualification, the department shall  
14    issue a license to sell beer for consumption on the premises  
15    to a tribal alcoholic beverages licensee who operates such  
16    business within the exterior boundaries of a Montana Indian  
17    reservation on [the effective date of this act].

18            (2) A license issued under the provisions of  
19    subsection (1) is not subject to the quota limitations of  
20    16-4-105.

21            (3) Upon application and approval by the department, a  
22    license issued under this section may be transferred to  
23    another qualified applicant, but only to a location within  
24    the quota area and the exterior boundaries of the Montana  
25    Indian reservation for which the license was originally

1 issued.

2 (4) A license issued under this section is subject to  
3 all statutes and rules governing licenses to sell beer at  
4 retail for on-premises consumption.

5 NEW SECTION. Section 2. Exception to limit on  
6 all-beverages licenses -- tribal alcoholic beverages  
7 licensees. (1) Upon application and qualification, the  
8 department shall issue an all-beverages license to a tribal  
9 alcoholic beverages licensee who operates such business  
10 within the exterior boundaries of a Montana Indian  
11 reservation on [the effective date of this act].

12 (2) A license issued under the provisions of  
13 subsection (1) is not subject to the quota limitations of  
14 16-4-201.

15 (3) Upon application and approval by the department, a  
16 license issued under this section may be transferred to  
17 another qualified applicant, but such license may only be  
18 transferred to a location within the quota area and the  
19 exterior boundaries of the Montana Indian reservation for  
20 which the license was originally issued.

21 (4) A license issued under this section is subject to  
22 all statutes and rules governing all-beverages licenses.

23 Section 3. Section 16-4-105, MCA, is amended to read:

24 "16-4-105. Limit on retail beer licenses -- wine  
25 license amendments -- off-premises consumption. (1) Except

1 as otherwise provided by law, a license to sell beer at  
2 retail or beer and wine at retail, in accordance with the  
3 provisions of this code and the rules of the department, may  
4 be issued to any person, firm, or corporation who is  
5 approved by the department as a fit and proper person, firm,  
6 or corporation to sell beer, except that:

7 (a) the number of retail beer licenses that the  
8 department may issue for premises situated within  
9 incorporated cities and incorporated towns and within a  
10 distance of 5 miles from the corporate limits of such cities  
11 and towns shall be determined on the basis of population  
12 prescribed in 16-4-502 as follows:

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

18 (ii) in incorporated cities or incorporated towns of  
19 more than 500 inhabitants and not over 2,000 inhabitants and  
20 within a distance of 5 miles from the corporate limits of  
21 such cities or towns, one retail beer license for each 500  
22 inhabitants, which may not be used in conjunction with  
23 retail all-beverages licenses;

24 (iii) in incorporated cities of over 2,000 inhabitants  
25 and within a distance of 5 miles from the corporate limits

1 of such cities, four retail beer licenses for the first  
 2 2,000 inhabitants, two additional retail beer licenses for  
 3 the next 2,000 inhabitants or major fraction thereof, and  
 4 one additional retail beer license for each additional 2,000  
 5 inhabitants, which may not be used in conjunction with  
 6 retail all-beverages licenses;

7 (b) the number of the inhabitants in such cities and  
 8 towns, exclusive of the number of inhabitants residing  
 9 within a distance of 5 miles from the corporate limits  
 10 thereof, shall govern the number of retail beer licenses  
 11 that may be issued for use within such cities and towns and  
 12 within a distance of 5 miles from the corporate limits  
 13 thereof. If two or more incorporated municipalities are  
 14 situated within a distance of 5 miles from each other, the  
 15 total number of retail beer licenses that may be issued for  
 16 use in both of such municipalities and within a distance of  
 17 5 miles from their respective corporate limits shall be  
 18 determined on the basis of the combined populations of both  
 19 of such municipalities and may not exceed the foregoing  
 20 limitations. The distance of 5 miles from the corporate  
 21 limits of any incorporated city or incorporated town shall  
 22 be measured in a straight line from the nearest entrance of  
 23 the premises proposed for licensing to the nearest corporate  
 24 boundary of such city or town.

25 (c) retail beer licenses of issue on March 7, 1947,

1 and retail beer licenses issued under [section 1], and which  
 2 are in excess of the foregoing limitations shall be  
 3 renewable, but no new licenses may be issued in violation of  
 4 such limitations;

5 (d) such limitations do not prevent the issuance of a  
 6 nontransferable and nonassignable retail beer license to a  
 7 post of a nationally chartered veterans' organization or a  
 8 lodge of a recognized national fraternal organization if  
 9 such veterans' or fraternal organization has been in  
 10 existence for a period of 5 years or more prior to January  
 11 1, 1949;

12 (e) the number of retail beer licenses that the  
 13 department may issue for use at premises situated outside of  
 14 any incorporated city or incorporated town and outside of  
 15 the area within a distance of 5 miles from the corporate  
 16 limits thereof or for use at premises situated within any  
 17 unincorporated town shall be as determined by the department  
 18 in the exercise of its sound discretion, except that no  
 19 retail beer license may be issued for any premises so  
 20 situated unless the department determines that the issuance  
 21 of such license is required by public convenience and  
 22 necessity.

23 (2) A person holding a license to sell beer for  
 24 consumption on the premises at retail may apply to the  
 25 department for an amendment to the license permitting the

1 holder to sell wine as well as beer. The division may issue  
 2 such amendment if it finds, on a satisfactory showing by the  
 3 applicant, that the sale of wine for consumption on the  
 4 premises would be supplementary to a restaurant or  
 5 prepared-food business. A person holding a beer-and-wine  
 6 license may sell wine for consumption on or off the  
 7 premises. Nonretention of the beer license, for whatever  
 8 reason, shall mean automatic loss of the wine amendment  
 9 license.

10 (3) A retail license to sell beer or table wine, or  
 11 both, in the original packages for off-premises consumption  
 12 only may be issued to any person, firm, or corporation who  
 13 is approved by the department as a fit and proper person,  
 14 firm, or corporation to sell beer or table wine, or both,  
 15 and whose premises proposed for licensing are operated as a  
 16 bona fide grocery store or a drugstore licensed as a  
 17 pharmacy. The number of such licenses that the department  
 18 may issue is not limited by the provisions of subsection (1)  
 19 of this section but shall be determined by the department in  
 20 the exercise of its sound discretion, and the department may  
 21 in the exercise of its sound discretion grant or deny any  
 22 application for any such license or suspend or revoke any  
 23 such license for cause."

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

25 "16-4-201. All-beverages license quota. (1) Except as

1 otherwise provided by law, a license to sell liquor, beer,  
 2 and wine at retail (an all-beverages license) in accordance  
 3 with the provisions of this code and the rules of the  
 4 department may be issued to any person who is approved by  
 5 the department as a fit and proper person to sell such  
 6 beverages, except that the number of all-beverages licenses  
 7 that the department may issue for premises situated within  
 8 incorporated cities and incorporated towns and within a  
 9 distance of 5 miles from the corporate limits of such cities  
 10 and towns shall be determined on the basis of population  
 11 prescribed in 16-4-502 as follows:

12 (a) in incorporated towns of 500 inhabitants or less  
 13 and within a distance of 5 miles from the corporate limits  
 14 of such towns, not more than two retail licenses;

15 (b) in incorporated cities or incorporated towns of  
 16 more than 500 inhabitants and not over 3,000 inhabitants and  
 17 within a distance of 5 miles from the corporate limits of  
 18 such cities and towns, three retail licenses for the first  
 19 1,000 inhabitants and one retail license for each additional  
 20 1,000 inhabitants;

21 (c) in incorporated cities of over 3,000 inhabitants  
 22 and within a distance of 5 miles from the corporate limits  
 23 thereof, five retail licenses for the first 3,000  
 24 inhabitants and one retail license for each additional 1,500  
 25 inhabitants.

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

19           (3) Retail all-beverages licenses of issue on March 7,  
 20 1947, and all-beverages licenses issued under [section 2],  
 21 and which are in excess of the foregoing limitations shall  
 22 be renewable, but no new licenses may be issued in violation  
 23 of such limitations.

24           (4) Such limitations do not prevent the issuance of a  
 25 nontransferable and nonassignable (as to ownership only)

1 retail license to any post of a nationally chartered  
 2 veterans' organization or any lodge of a recognized national  
 3 fraternal organization if such veterans' or fraternal  
 4 organization has been in existence for a period of 5 years  
 5 or more prior to January 1, 1949.

6           (5) The number of retail all-beverages licenses that  
 7 the department may issue for use at premises situated  
 8 outside of any incorporated city or incorporated town and  
 9 outside of the area within a distance of 5 miles from the  
 10 corporate limits thereof may not be more than one license  
 11 for each 750 population of the county after excluding the  
 12 population of incorporated cities and incorporated towns in  
 13 such county."

14           Section 5. Section 16-4-204, MCA, is amended to read:

15           "16-4-204. Transfer -- catering endorsement. (1) (a)  
 16 Except as provided in subsection (1)(b), a license may be  
 17 transferred to a new ownership and to a location outside the  
 18 quota area for which it was originally issued only when the  
 19 following criteria are met:

20           (i) the total number of all-beverages licenses in the  
 21 original quota area exceeded the quota for that area by at  
 22 least 25% in the most recent census prescribed in 16-4-502;

23           (ii) the total number of all-beverages licenses in the  
 24 quota area to which the license would be transferred,  
 25 exclusive of those issued under [section 2], did not exceed

1 that area's quota in the most recent census prescribed in  
2 16-4-502:

3 (A) by more than 33%; or

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

7 (iii) the department finds, after a public hearing,  
8 that the public convenience and necessity would be served by  
9 such a transfer.

10 (b) A license within an incorporated quota area may be  
11 transferred to a new ownership and to a new unincorporated  
12 location within the same county on application to and with  
13 consent of the department when the quota of the  
14 all-beverages licenses in the original quota area, exclusive  
15 of those issued under [section 2], exceeds the quota for  
16 that area by at least 25% in the most recent census and will  
17 not fall below that level because of the transfer.

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

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

1 (e) A license issued under [section 2] may not be  
2 transferred to a location outside the quota area and the  
3 exterior boundaries of the Montana Indian reservation for  
4 which it was originally issued.

5 (2) (a) Any all-beverages licensee is, upon the  
6 approval and in the discretion of the liquor division,  
7 entitled to a catering endorsement to his all-beverages  
8 license to allow the catering and sale of alcoholic  
9 beverages to persons attending a special event upon premises  
10 not otherwise licensed for the sale of alcoholic beverages,  
11 such beverages to be consumed on the premises where the  
12 event is held.

13 (b) A written application for a catering endorsement  
14 and an annual fee of \$250 must be submitted to the  
15 department for its approval.

16 (c) A written application for each event for which the  
17 licensee intends to provide catering services, the written  
18 approval of the catering application by the sponsor of the  
19 special event, and a fee of \$35 must be filed with the  
20 department at least 3 days prior to the event and shall  
21 describe the location of the premises where the event is to  
22 be held, the nature of the event, and the period during  
23 which the event is to be held. An all-beverages licensee who  
24 holds an endorsement granted under this subsection (2) may  
25 not receive approval to cater an event of which he is the



1 sponsor. The catered event must be within 100 miles of the  
 2 licensee's regular place of business. If obtained, the  
 3 licensee shall display in a prominent place on those  
 4 premises, the written approval from the department for each  
 5 event which is catered pursuant to this subsection.

6 (d) The licensee shall file with each application for  
 7 an event to be catered a written statement of approval of  
 8 the premises where the event is to be held issued by the  
 9 department of health and environmental sciences and the  
 10 local law enforcement agency that has jurisdiction over the  
 11 premises where the event is to be held.

12 (e) The sale of alcoholic beverages pursuant to a  
 13 catering endorsement is subject to the provisions of  
 14 16-6-103.

15 (f) The sale of alcoholic beverages pursuant to a  
 16 catering endorsement is subject to the provisions of  
 17 16-3-306, unless entities named in 16-3-306 give their  
 18 written approval."

19 NEW SECTION. Section 6. Codification instruction. (1)  
 20 Section 1 is intended to be codified as an integral part of  
 21 Title 16, chapter 4, part 1, and the provisions of Title 16,  
 22 chapters 1 through 6, apply to section 1.

23 (2) Section 2 is intended to be codified as an  
 24 integral part of Title 16, chapter 4, part 2, and the  
 25 provisions of Title 16, chapters 1 through 6, apply to

1 section 2.

2 NEW SECTION. Section 7. Extension of authority Any  
 3 existing authority of the department of revenue to make  
 4 rules on the subject of the provisions of this act is  
 5 extended to the provisions of this act.

6 NEW SECTION. Section 8. Effective date --  
 7 applicability. This act is effective on passage and approval  
 8 and applies only to tribal licensees who hold tribal  
 9 licenses on the effective date of this act.

-End-

## STATE OF MONTANA

## FISCAL NOTE

REQUEST NO. FNN 510-85

Form BD-15

In compliance with a written request received February 27, 19 85, there is hereby submitted a Fiscal Note for House Bill 924 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 OF PROPOSED LEGISLATION:

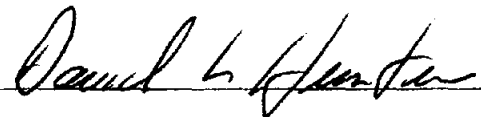
An act creating retail alcohol beverages licenses in excess of state quota limitations to be issued to tribal alcoholic beverages licensees doing business on Montana Indian Reservations.

ASSUMPTIONS:

1. There are two tribal alcoholic beverages licensees doing business on Montana Indian Reservations; both will obtain All Beverages Licenses in FY1985 when the bill becomes effective. This will produce an additional \$1,000 during FY1985: \$400 license fee plus \$100 processing fee for each license.
2. The renewal fee for each All Beverages License is \$400 per year.

FISCAL IMPACT:

	<u>FY 1986</u>			<u>FY 1987</u>		
	<u>Under Current Law</u>	<u>Under Proposed Law</u>	<u>Difference</u>	<u>Under Current Law</u>	<u>Under Proposed Law</u>	<u>Difference</u>
Liquor License Fee	0	800	800	0	800	800
TOTAL GENERAL FUND REVENUE	0	800	800	0	800	800



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 27, 1985

HB 924

1 HOUSE BILL NO. 924  
 2 INTRODUCED BY BARDANOUE  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING RETAIL  
 6 ALCOHOLIC BEVERAGES LICENSES IN EXCESS OF STATE QUOTA  
 7 LIMITATIONS TO BE ISSUED TO TRIBAL ALCOHOLIC BEVERAGES  
 8 LICENSEES DOING BUSINESS ON MONTANA INDIAN RESERVATIONS;  
 9 AMENDING SECTIONS 16-4-105, 16-4-201, AND 16-4-204, MCA; AND  
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY  
 11 DATE."

12  
 13 WHEREAS, on July 1, 1983, the United States Supreme  
 14 Court rendered its opinion in the case entitled Rice,  
 15 Director, Department of Alcoholic Beverage Control of  
 16 California v. Rehner, and held that Congress had delegated  
 17 authority to the states, as well as to Indian tribes, to  
 18 regulate the use and distribution of alcoholic beverages in  
 19 Indian country; and

20 WHEREAS, the Montana Alcoholic Beverage Code limits the  
 21 number of all-beverages licenses available in corporate city  
 22 and county quota areas and the number of on-premises  
 23 consumption retail beer licenses available in corporate city  
 24 quota areas; and

25 WHEREAS, the enforcement of Montana's alcoholic

1 beverages license quota creates a hardship on tribal  
 2 alcoholic beverages licensees in quota areas where no state  
 3 licenses are available.

4 THEREFORE, the Legislature of the State of Montana  
 5 determines it appropriate to make available retail alcoholic  
 6 beverages licenses in excess of state quota limitations to  
 7 be issued to persons holding tribal alcoholic beverages  
 8 licenses and doing business on Montana Indian reservations.

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

11 NEW SECTION. Section 1. Exception to limit on retail  
 12 beer licenses -- tribal alcoholic beverages licensees. (1)  
 13 Upon application and qualification, the department shall  
 14 issue a license to sell beer for consumption on the premises  
 15 to a tribal alcoholic beverages licensee who operates such  
 16 business within the exterior boundaries of a Montana Indian  
 17 reservation on [the effective date of this act].

18 (2) A license issued under the provisions of  
 19 subsection (1) is not subject to the quota limitations of  
 20 16-4-105.

21 (3) Upon application and approval by the department, a  
 22 license issued under this section may be transferred to  
 23 another qualified applicant, but only to a location within  
 24 the quota area and the exterior boundaries of the Montana  
 25 Indian reservation for which the license was originally



1 issued.

2 (4) A license issued under this section is subject to  
3 all statutes and rules governing licenses to sell beer at  
4 retail for on-premises consumption.

5 NEW SECTION. Section 2. Exception to limit on  
6 all-beverages licenses -- tribal alcoholic beverages  
7 licensees. (1) Upon application and qualification, the  
8 department shall issue an all-beverages license to a tribal  
9 alcoholic beverages licensee who operates such business  
10 within the exterior boundaries of a Montana Indian  
11 reservation on [the effective date of this act].

12 (2) A license issued under the provisions of  
13 subsection (1) is not subject to the quota limitations of  
14 16-4-201.

15 (3) Upon application and approval by the department, a  
16 license issued under this section may be transferred to  
17 another qualified applicant, but such license may only be  
18 transferred to a location within the quota area and the  
19 exterior boundaries of the Montana Indian reservation for  
20 which the license was originally issued.

21 (4) A license issued under this section is subject to  
22 all statutes and rules governing all-beverages licenses.

23 Section 3. Section 16-4-105, MCA, is amended to read:

24 "16-4-105. Limit on retail beer licenses -- wine  
25 license amendments -- off-premises consumption. (1) Except

1 as otherwise provided by law, a license to sell beer at  
2 retail or beer and wine at retail, in accordance with the  
3 provisions of this code and the rules of the department, may  
4 be issued to any person, firm, or corporation who is  
5 approved by the department as a fit and proper person, firm,  
6 or corporation to sell beer, except that:

7 (a) the number of retail beer licenses that the  
8 department may issue for premises situated within  
9 incorporated cities and incorporated towns and within a  
10 distance of 5 miles from the corporate limits of such cities  
11 and towns shall be determined on the basis of population  
12 prescribed in 16-4-502 as follows:

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

18 (ii) in incorporated cities or incorporated towns of  
19 more than 500 inhabitants and not over 2,000 inhabitants and  
20 within a distance of 5 miles from the corporate limits of  
21 such cities or towns, one retail beer license for each 500  
22 inhabitants, which may not be used in conjunction with  
23 retail all-beverages licenses;

24 (iii) in incorporated cities of over 2,000 inhabitants  
25 and within a distance of 5 miles from the corporate limits

1 of such cities, four retail beer licenses for the first  
 2 2,000 inhabitants, two additional retail beer licenses for  
 3 the next 2,000 inhabitants or major fraction thereof, and  
 4 one additional retail beer license for each additional 2,000  
 5 inhabitants, which may not be used in conjunction with  
 6 retail all-beverages licenses;

7 (b) the number of the inhabitants in such cities and  
 8 towns, exclusive of the number of inhabitants residing  
 9 within a distance of 5 miles from the corporate limits  
 10 thereof, shall govern the number of retail beer licenses  
 11 that may be issued for use within such cities and towns and  
 12 within a distance of 5 miles from the corporate limits  
 13 thereof. If two or more incorporated municipalities are  
 14 situated within a distance of 5 miles from each other, the  
 15 total number of retail beer licenses that may be issued for  
 16 use in both of such municipalities and within a distance of  
 17 5 miles from their respective corporate limits shall be  
 18 determined on the basis of the combined populations of both  
 19 of such municipalities and may not exceed the foregoing  
 20 limitations. The distance of 5 miles from the corporate  
 21 limits of any incorporated city or incorporated town shall  
 22 be measured in a straight line from the nearest entrance of  
 23 the premises proposed for licensing to the nearest corporate  
 24 boundary of such city or town.

25 (c) retail beer licenses of issue on March 7, 1947,

1 and retail beer licenses issued under [section 1], and which  
 2 are in excess of the foregoing limitations shall be  
 3 renewable, but no new licenses may be issued in violation of  
 4 such limitations;

5 (d) such limitations do not prevent the issuance of a  
 6 nontransferable and nonassignable retail beer license to a  
 7 post of a nationally chartered veterans' organization or a  
 8 lodge of a recognized national fraternal organization if  
 9 such veterans' or fraternal organization has been in  
 10 existence for a period of 5 years or more prior to January  
 11 1, 1949;

12 (e) the number of retail beer licenses that the  
 13 department may issue for use at premises situated outside of  
 14 any incorporated city or incorporated town and outside of  
 15 the area within a distance of 5 miles from the corporate  
 16 limits thereof or for use at premises situated within any  
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 18 in the exercise of its sound discretion, except that no  
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 20 situated unless the department determines that the issuance  
 21 of such license is required by public convenience and  
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 24 consumption on the premises at retail may apply to the  
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 2 such amendment if it finds, on a satisfactory showing by the  
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 4 premises would be supplementary to a restaurant or  
 5 prepared-food business. A person holding a beer-and-wine  
 6 license may sell wine for consumption on or off the  
 7 premises. Nonretention of the beer license, for whatever  
 8 reason, shall mean automatic loss of the wine amendment  
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10 (3) A retail license to sell beer or table wine, or  
 11 both, in the original packages for off-premises consumption  
 12 only may be issued to any person, firm, or corporation who  
 13 is approved by the department as a fit and proper person,  
 14 firm, or corporation to sell beer or table wine, or both,  
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 16 bona fide grocery store or a drugstore licensed as a  
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 19 of this section but shall be determined by the department in  
 20 the exercise of its sound discretion, and the department may  
 21 in the exercise of its sound discretion grant or deny any  
 22 application for any such license or suspend or revoke any  
 23 such license for cause."

24 Section 4. Section 16-4-201, MCA, is amended to read:  
 25 "16-4-201. All-beverages license quota. (1) Except as

1 otherwise provided by law, a license to sell liquor, beer,  
 2 and wine at retail (an all-beverages license) in accordance  
 3 with the provisions of this code and the rules of the  
 4 department may be issued to any person who is approved by  
 5 the department as a fit and proper person to sell such  
 6 beverages, except that the number of all-beverages licenses  
 7 that the department may issue for premises situated within  
 8 incorporated cities and incorporated towns and within a  
 9 distance of 5 miles from the corporate limits of such cities  
 10 and towns shall be determined on the basis of population  
 11 prescribed in 16-4-502 as follows:

12 (a) in incorporated towns of 500 inhabitants or less  
 13 and within a distance of 5 miles from the corporate limits  
 14 of such towns, not more than two retail licenses;

15 (b) in incorporated cities or incorporated towns of  
 16 more than 500 inhabitants and not over 3,000 inhabitants and  
 17 within a distance of 5 miles from the corporate limits of  
 18 such cities and towns, three retail licenses for the first  
 19 1,000 inhabitants and one retail license for each additional  
 20 1,000 inhabitants;

21 (c) in incorporated cities of over 3,000 inhabitants  
 22 and within a distance of 5 miles from the corporate limits  
 23 thereof, five retail licenses for the first 3,000  
 24 inhabitants and one retail license for each additional 1,500  
 25 inhabitants.

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

19 (3) Retail all-beverages licenses of issue on March 7,  
 20 1947, and all-beverages licenses issued under [section 2],  
 21 and which are in excess of the foregoing limitations shall  
 22 be renewable, but no new licenses may be issued in violation  
 23 of such limitations.

24 (4) Such limitations do not prevent the issuance of a  
 25 nontransferable and nonassignable (as to ownership only)

1 retail license to any post of a nationally chartered  
 2 veterans' organization or any lodge of a recognized national  
 3 fraternal organization if such veterans' or fraternal  
 4 organization has been in existence for a period of 5 years  
 5 or more prior to January 1, 1949.

6 (5) The number of retail all-beverages licenses that  
 7 the department may issue for use at premises situated  
 8 outside of any incorporated city or incorporated town and  
 9 outside of the area within a distance of 5 miles from the  
 10 corporate limits thereof may not be more than one license  
 11 for each 750 population of the county after excluding the  
 12 population of incorporated cities and incorporated towns in  
 13 such county."

14 Section 5. Section 16-4-204, MCA, is amended to read:  
 15 "16-4-204. Transfer -- catering endorsement. (1) (a)  
 16 Except as provided in subsection (1)(b), a license may be  
 17 transferred to a new ownership and to a location outside the  
 18 quota area for which it was originally issued only when the  
 19 following criteria are met:

20 (i) the total number of all-beverages licenses in the  
 21 original quota area exceeded the quota for that area by at  
 22 least 25% in the most recent census prescribed in 16-4-502;  
 23 (ii) the total number of all-beverages licenses in the  
 24 quota area to which the license would be transferred,  
 25 exclusive of those issued under [section 2], did not exceed

1 that area's quota in the most recent census prescribed in  
2 16-4-502:

3 (A) by more than 33%; or

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

7 (iii) the department finds, after a public hearing,  
8 that the public convenience and necessity would be served by  
9 such a transfer.

10 (b) A license within an incorporated quota area may be  
11 transferred to a new ownership and to a new unincorporated  
12 location within the same county on application to and with  
13 consent of the department when the quota of the  
14 all-beverages licenses in the original quota area, exclusive  
15 of those issued under [section 2], exceeds the quota for  
16 that area by at least 25% in the most recent census and will  
17 not fall below that level because of the transfer.

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

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

1 (e) A license issued under [section 2] may not be  
2 transferred to a location outside the quota area and the  
3 exterior boundaries of the Montana Indian reservation for  
4 which it was originally issued.

5 (2) (a) Any all-beverages licensee is, upon the  
6 approval and in the discretion of the liquor division,  
7 entitled to a catering endorsement to his all-beverages  
8 license to allow the catering and sale of alcoholic  
9 beverages to persons attending a special event upon premises  
10 not otherwise licensed for the sale of alcoholic beverages,  
11 such beverages to be consumed on the premises where the  
12 event is held.

13 (b) A written application for a catering endorsement  
14 and an annual fee of \$250 must be submitted to the  
15 department for its approval.

16 (c) A written application for each event for which the  
17 licensee intends to provide catering services, the written  
18 approval of the catering application by the sponsor of the  
19 special event, and a fee of \$35 must be filed with the  
20 department at least 3 days prior to the event and shall  
21 describe the location of the premises where the event is to  
22 be held, the nature of the event, and the period during  
23 which the event is to be held. An all-beverages licensee who  
24 holds an endorsement granted under this subsection (2) may  
25 not receive approval to cater an event of which he is the



1 sponsor. The catered event must be within 100 miles of the  
 2 licensee's regular place of business. If obtained, the  
 3 licensee shall display in a prominent place on those  
 4 premises, the written approval from the department for each  
 5 event which is catered pursuant to this subsection.

6 (d) The licensee shall file with each application for  
 7 an event to be catered a written statement of approval of  
 8 the premises where the event is to be held issued by the  
 9 department of health and environmental sciences and the  
 10 local law enforcement agency that has jurisdiction over the  
 11 premises where the event is to be held.

12 (e) The sale of alcoholic beverages pursuant to a  
 13 catering endorsement is subject to the provisions of  
 14 16-6-103.

15 (f) The sale of alcoholic beverages pursuant to a  
 16 catering endorsement is subject to the provisions of  
 17 16-3-306, unless entities named in 16-3-306 give their  
 18 written approval."

19 NEW SECTION. Section 6. Codification instruction. (1)  
 20 Section 1 is intended to be codified as an integral part of  
 21 Title 16, chapter 4, part 1, and the provisions of Title 16,  
 22 chapters 1 through 6, apply to section 1.

23 (2) Section 2 is intended to be codified as an  
 24 integral part of Title 16, chapter 4, part 2, and the  
 25 provisions of Title 16, chapters 1 through 6, apply to

1 section 2.

2 NEW SECTION. Section 7. Extension of authority. Any  
 3 existing authority of the department of revenue to make  
 4 rules on the subject of the provisions of this act is  
 5 extended to the provisions of this act.

6 NEW SECTION. Section 8. Effective date --  
 7 applicability. This act is effective on passage and approval  
 8 and applies only to tribal licensees who hold tribal  
 9 licenses ~~on--the-effective-date-of-this-act~~ ISSUED PRIOR TO  
 10 JANUARY 1, 1985.

-End-

SENATE STANDING COMMITTEE REPORT

HOUSE BILL 924  
PAGE 1 of 4 PAGES

APRIL 9 1985

MR. PRESIDENT

~~ERRATA~~ TAXATION

We, your committee on.....

HOUSE BILL No. 924

having had under consideration.....

THIRD reading copy ( BLUE )  
color

(MAZUREK WILL CARRY)

ALCOHOLIC BEVERAGE LICENSES ISSUED ON INDIAN RESERVATIONS

HOUSE BILL No. 924

Respectfully report as follows: That.....

be amended as follows:

1. Title, line 8.  
Following: "RESERVATIONS"  
Insert: "AND TO ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND OFFICERS' CLUBS LOCATED ON FEDERAL MILITARY RESERVATIONS"
2. Page 2, line 3.  
Following: "available"  
Strike: "."  
Insert: "; and  
WHEREAS, the enlisted men's, noncommissioned officers', and officers' clubs located on federal military reservations in Montana have operated for many years as federal enclaves beyond the jurisdiction of state laws relating to licensing and regulation of alcoholic beverages; and

WHEREAS, effective December 1, 1984, Air National Guard Regulation 215-2 requires enlisted men's, noncommissioned officers', and officers' clubs to comply with state laws relating to licensing and regulation of alcoholic beverages; and

HOUSE BILL 924  
PAGE 2 of 4 PAGES

APRIL 9 1985

WHEREAS, the enforcement of Montana's alcoholic beverage license quota creates a hardship for enlisted men's, noncommissioned officers', and officers' clubs which have historically operated as social clubs without profit motive and which do not have the economic capacity to compete for licenses."

3. Page 2, line 8.  
Following: "reservations"  
Insert: "and to enlisted men's, noncommissioned officers', and officers' clubs located on federal military reservations"
4. Page 2, line 11.  
Following: "1."  
Strike: "Exception"  
Insert: "Exceptions"
5. Page 2, line 12.  
Following: "licensees"  
Insert: "and enlisted men's, noncommissioned officers', and officers' clubs"
6. Page 2, line 15.  
Following: "to"  
Insert: ": (a)"
7. Page 2, line 17.  
Following: "reservation"  
Insert: "under a tribal license issued prior to January 1, 1985; (b) an enlisted men's, noncommissioned officers', or officers' club located on a federal military reservation in Montana"
8. Page 2, line 22.  
Following: "under"  
Strike: "this section"  
Insert: "subsection (1)(a)"
9. Page 3, line 5.  
Following: "2."  
Strike: "Exception"  
Insert: "Exceptions"

XXXXXXXXXX

XXXXXXXXXX

CONTINUED

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10. Page 3, line 7.  
Following: "licensees"  
Insert: "and enlisted men's, noncommissioned officers',  
and officers' clubs".
11. Page 3, line 8.  
Following: "to"  
Insert: ": (a)"
12. Page 3, line 11.  
Following: "reservation"  
Insert: "under a tribal license issued prior to  
January 1, 1985; (b) an enlisted men's,  
noncommissioned officers', or officers' club  
located on a federal military reservation in  
Montana"
13. Page 3, line 16.  
Following: "under"  
Strike: "this section"  
Insert: "subsection (1)(a)"
14. Page 6, line 6.  
Following: "to"  
Insert: "an enlisted men's, noncommissioned officers',  
or officers' club located on a federal military  
reservation on [the effective date of this act] or  
to"
15. Page 10, line 1.  
Following: "to"  
Insert: "an enlisted men's, noncommissioned officers',  
or officers' club located on a federal military  
reservation on [the effective date of this act]  
or to"
16. Page 10, line 25.  
Following: "under"  
Insert: "subsection (1)(a) of"

17. Page 11, line 15.  
Following: "under"  
Insert: "subsection (1)(a) of"
18. Page 12, line 1.  
Following: "under"  
Insert: "subsection (1)(a) of"
19. Page 14, line 10.  
Following: "1985"  
Insert: ", and to enlisted men's, noncommissioned  
officers', and officers' clubs located on  
federal military reservations in Montana on  
[the effective date of this act]"

AND AS AMENDED

BE CONCURRED IN

*J.C.*

*TET*

*James E. [Signature]*

## 1 HOUSE BILL NO. 924

2 INTRODUCED BY BARDANOUE

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING RETAIL  
6 ALCOHOLIC BEVERAGES LICENSES IN EXCESS OF STATE QUOTA  
7 LIMITATIONS TO BE ISSUED TO TRIBAL ALCOHOLIC BEVERAGES  
8 LICENSEES DOING BUSINESS ON MONTANA INDIAN RESERVATIONS AND  
9 TO ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND OFFICERS'  
10 CLUBS LOCATED ON FEDERAL MILITARY RESERVATIONS; AMENDING  
11 SECTIONS 16-4-105, 16-4-201, AND 16-4-204, MCA; AND  
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY  
13 DATE DATES."

14  
15 WHEREAS, on July 1, 1983, the United States Supreme  
16 Court rendered its opinion in the case entitled Rice,  
17 Director, Department of Alcoholic Beverage Control of  
18 California v. Rehner, and held that Congress had delegated  
19 authority to the states, as well as to Indian tribes, to  
20 regulate the use and distribution of alcoholic beverages in  
21 Indian country; and

22 WHEREAS, the Montana Alcoholic Beverage Code limits the  
23 number of all-beverages licenses available in corporate city  
24 and county quota areas and the number of on-premises  
25 consumption retail beer licenses available in corporate city

1 quota areas; and

2 WHEREAS, the enforcement of Montana's alcoholic  
3 beverages license quota creates a hardship on tribal  
4 alcoholic beverages licensees in quota areas where no state  
5 licenses are available; AND

6 WHEREAS, THE ENLISTED MEN'S, NONCOMMISSIONED OFFICERS',  
7 AND OFFICERS' CLUBS LOCATED ON FEDERAL MILITARY RESERVATIONS  
8 IN MONTANA HAVE OPERATED FOR MANY YEARS AS FEDERAL ENCLAVES  
9 BEYOND THE JURISDICTION OF STATE LAWS RELATING TO LICENSING  
10 AND REGULATION OF ALCOHOLIC BEVERAGES; AND

11 WHEREAS, EFFECTIVE DECEMBER 1, 1984, AIR NATIONAL GUARD  
12 REGULATION 215-2 REQUIRES ENLISTED MEN'S, NONCOMMISSIONED  
13 OFFICERS', AND OFFICERS' CLUBS TO COMPLY WITH STATE LAWS  
14 RELATING TO LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES;  
15 AND

16 WHEREAS, THE ENFORCEMENT OF MONTANA'S ALCOHOLIC  
17 BEVERAGE LICENSE QUOTA CREATES A HARDSHIP FOR ENLISTED  
18 MEN'S, NONCOMMISSIONED OFFICERS', AND OFFICERS' CLUBS, WHICH  
19 HAVE HISTORICALLY OPERATED AS SOCIAL CLUBS WITHOUT PROFIT  
20 MOTIVE AND WHICH DO NOT HAVE THE ECONOMIC CAPACITY TO  
21 COMPETE FOR LICENSES.

22 THEREFORE, the Legislature of the State of Montana  
23 determines it appropriate to make available retail alcoholic  
24 beverages licenses in excess of state quota limitations to  
25 be issued to persons holding tribal alcoholic beverages

1 licenses and doing business on Montana Indian reservations  
 2 AND TO ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND  
 3 OFFICERS' CLUBS LOCATED ON FEDERAL MILITARY RESERVATIONS.  
 4

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

6 NEW SECTION. Section 1. Exception EXCEPTIONS to limit  
 7 on retail beer licenses -- tribal alcoholic beverages  
 8 licensees AND ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND  
 9 OFFICERS' CLUBS. (1) Upon application and qualification, the  
 10 department shall issue a license to sell beer for  
 11 consumption on the premises to:

12 (A) a tribal alcoholic beverages licensee who operates  
 13 such business within the exterior boundaries of a Montana  
 14 Indian reservation UNDER A TRIBAL LICENSE ISSUED PRIOR TO  
 15 JANUARY 1, 1985;

16 (B) AN ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', OR  
 17 OFFICERS' CLUB LOCATED ON A FEDERAL MILITARY RESERVATION IN  
 18 MONTANA on [the effective date of this act].

19 (2) A license issued under the provisions of  
 20 subsection (1) is not subject to the quota limitations of  
 21 16-4-105.

22 (3) Upon application and approval by the department, a  
 23 license issued under this-section SUBSECTION (1)(A) may be  
 24 transferred to another qualified applicant, but only to a  
 25 location within the quota area and the exterior boundaries

1 of the Montana Indian reservation for which the license was  
 2 originally issued.

3 (4) A license issued under this section is subject to  
 4 all statutes and rules governing licenses to sell beer at  
 5 retail for on-premises consumption.

6 NEW SECTION. Section 2. Exception EXCEPTIONS to limit  
 7 on all-beverages licenses -- tribal alcoholic beverages  
 8 licensees AND ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND  
 9 OFFICERS' CLUBS. (1) Upon application and qualification, the  
 10 department shall issue an all-beverages license to:

11 (A) a tribal alcoholic beverages licensee who operates  
 12 such business within the exterior boundaries of a Montana  
 13 Indian reservation UNDER A TRIBAL LICENSE ISSUED PRIOR TO  
 14 JANUARY 1, 1985;

15 (B) AN ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', OR  
 16 OFFICERS' CLUB LOCATED ON A FEDERAL MILITARY RESERVATION IN  
 17 MONTANA on [the effective date of this act].

18 (2) A license issued under the provisions of  
 19 subsection (1) is not subject to the quota limitations of  
 20 16-4-201.

21 (3) Upon application and approval by the department, a  
 22 license issued under this-section SUBSECTION (1)(A) may be  
 23 transferred to another qualified applicant, but such license  
 24 may only be transferred to a location within the quota area  
 25 and the exterior boundaries of the Montana Indian

1 reservation for which the license was originally issued.

2 (4) A license issued under this section is subject to  
3 all statutes and rules governing all-beverages licenses.

4 Section 3. Section 16-4-105, MCA, is amended to read:

5 "16-4-105. Limit on retail beer licenses -- wine  
6 license amendments -- off-premises consumption. (1) Except  
7 as otherwise provided by law, a license to sell beer at  
8 retail or beer and wine at retail, in accordance with the  
9 provisions of this code and the rules of the department, may  
10 be issued to any person, firm, or corporation who is  
11 approved by the department as a fit and proper person, firm,  
12 or corporation to sell beer, except that:

13 (a) the number of retail beer licenses that the  
14 department may issue for premises situated within  
15 incorporated cities and incorporated towns and within a  
16 distance of 5 miles from the corporate limits of such cities  
17 and towns shall be determined on the basis of population  
18 prescribed in 16-4-502 as follows:

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

24 (ii) in incorporated cities or incorporated towns of  
25 more than 500 inhabitants and not over 2,000 inhabitants and

1 within a distance of 5 miles from the corporate limits of  
2 such cities or towns, one retail beer license for each 500  
3 inhabitants, which may not be used in conjunction with  
4 retail all-beverages licenses;

5 (iii) in incorporated cities of over 2,000 inhabitants  
6 and within a distance of 5 miles from the corporate limits  
7 of such cities, four retail beer licenses for the first  
8 2,000 inhabitants, two additional retail beer licenses for  
9 the next 2,000 inhabitants or major fraction thereof, and  
10 one additional retail beer license for each additional 2,000  
11 inhabitants, which may not be used in conjunction with  
12 retail all-beverages licenses;

13 (b) the number of the inhabitants in such cities and  
14 towns, exclusive of the number of inhabitants residing  
15 within a distance of 5 miles from the corporate limits  
16 thereof, shall govern the number of retail beer licenses  
17 that may be issued for use within such cities and towns and  
18 within a distance of 5 miles from the corporate limits  
19 thereof. If two or more incorporated municipalities are  
20 situated within a distance of 5 miles from each other, the  
21 total number of retail beer licenses that may be issued for  
22 use in both of such municipalities and within a distance of  
23 5 miles from their respective corporate limits shall be  
24 determined on the basis of the combined populations of both  
25 of such municipalities and may not exceed the foregoing

1 limitations. The distance of 5 miles from the corporate  
 2 limits of any incorporated city or incorporated town shall  
 3 be measured in a straight line from the nearest entrance of  
 4 the premises proposed for licensing to the nearest corporate  
 5 boundary of such city or town.

6 (c) retail beer licenses of issue on March 7, 1947,  
 7 and retail beer licenses issued under [section 1], and which  
 8 are in excess of the foregoing limitations shall be  
 9 renewable, but no new licenses may be issued in violation of  
 10 such limitations;

11 (d) such limitations do not prevent the issuance of a  
 12 nontransferable and nonassignable retail beer license to AN  
 13 ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', OR OFFICERS' CLUB  
 14 LOCATED ON A FEDERAL MILITARY RESERVATION ON [THE EFFECTIVE  
 15 DATE OF THIS ACT] OR TO a post of a nationally chartered  
 16 veterans' organization or a lodge of a recognized national  
 17 fraternal organization if such veterans' or fraternal  
 18 organization has been in existence for a period of 5 years  
 19 or more prior to January 1, 1949;

20 (e) the number of retail beer licenses that the  
 21 department may issue for use at premises situated outside of  
 22 any incorporated city or incorporated town and outside of  
 23 the area within a distance of 5 miles from the corporate  
 24 limits thereof or for use at premises situated within any  
 25 unincorporated town shall be as determined by the department

1 in the exercise of its sound discretion, except that no  
 2 retail beer license may be issued for any premises so  
 3 situated unless the department determines that the issuance  
 4 of such license is required by public convenience and  
 5 necessity.

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

18 (3) A retail license to sell beer or table wine, or  
 19 both, in the original packages for off-premises consumption  
 20 only may be issued to any person, firm, or corporation who  
 21 is approved by the department as a fit and proper person,  
 22 firm, or corporation to sell beer or table wine, or both,  
 23 and whose premises proposed for licensing are operated as a  
 24 bona fide grocery store or a drugstore licensed as a  
 25 pharmacy. The number of such licenses that the department

1 may issue is not limited by the provisions of subsection (1)  
 2 of this section but shall be determined by the department in  
 3 the exercise of its sound discretion, and the department may  
 4 in the exercise of its sound discretion grant or deny any  
 5 application for any such license or suspend or revoke any  
 6 such license for cause."

7 Section 4. Section 16-4-201, MCA, is amended to read:  
 8 "16-4-201. All-beverages license quota. (1) Except as  
 9 otherwise provided by law, a license to sell liquor, beer,  
 10 and wine at retail (an all-beverages license) in accordance  
 11 with the provisions of this code and the rules of the  
 12 department may be issued to any person who is approved by  
 13 the department as a fit and proper person to sell such  
 14 beverages, except that the number of all-beverages licenses  
 15 that the department may issue for premises situated within  
 16 incorporated cities and incorporated towns and within a  
 17 distance of 5 miles from the corporate limits of such cities  
 18 and towns shall be determined on the basis of population  
 19 prescribed in 16-4-502 as follows:

20 (a) in incorporated towns of 500 inhabitants or less  
 21 and within a distance of 5 miles from the corporate limits  
 22 of such towns, not more than two retail licenses;

23 (b) in incorporated cities or incorporated towns of  
 24 more than 500 inhabitants and not over 3,000 inhabitants and  
 25 within a distance of 5 miles from the corporate limits of

1 such cities and towns, three retail licenses for the first  
 2 1,000 inhabitants and one retail license for each additional  
 3 1,000 inhabitants;

4 (c) in incorporated cities of over 3,000 inhabitants  
 5 and within a distance of 5 miles from the corporate limits  
 6 thereof, five retail licenses for the first 3,000  
 7 inhabitants and one retail license for each additional 1,500  
 8 inhabitants.

9 (2) The number of the inhabitants in such cities and  
 10 towns, exclusive of the number of inhabitants residing  
 11 within a distance of 5 miles from the corporate limits  
 12 thereof, shall govern the number of retail licenses that may  
 13 be issued for use within such cities and towns and within a  
 14 distance of 5 miles from the corporate limits thereof. If  
 15 two or more incorporated municipalities are situated within  
 16 a distance of 5 miles from each other, the total number of  
 17 retail licenses that may be issued for use in both of such  
 18 municipalities and within a distance of 5 miles from their  
 19 respective corporate limits shall be determined on the basis  
 20 of the combined populations of both of such municipalities  
 21 and may not exceed the foregoing limitations. The distance  
 22 of 5 miles from the corporate limits of any incorporated  
 23 city or incorporated town shall be measured in a straight  
 24 line from the nearest entrance of the premises proposed for  
 25 licensing to the nearest corporate boundary of the city or



1 town.

2 (3) Retail all-beverages licenses of issue on March 7,  
3 1947, and all-beverages licenses issued under [section 2],  
4 and which are in excess of the foregoing limitations shall  
5 be renewable, but no new licenses may be issued in violation  
6 of such limitations.

7 (4) Such limitations do not prevent the issuance of a  
8 nontransferable and nonassignable (as to ownership only)  
9 retail license to AN ENLISTED MEN'S, NONCOMMISSIONED  
10 OFFICERS', OR OFFICERS' CLUB LOCATED ON A FEDERAL MILITARY  
11 RESERVATION ON [THE EFFECTIVE DATE OF THIS ACT] OR TO any  
12 post of a nationally chartered veterans' organization or any  
13 lodge of a recognized national fraternal organization if  
14 such veterans' or fraternal organization has been in  
15 existence for a period of 5 years or more prior to January  
16 1, 1949.

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

25 Section 5. Section 16-4-204, MCA, is amended to read:

1 "16-4-204. Transfer -- catering endorsement. (1) (a)  
2 Except as provided in subsection (1)(b), a license may be  
3 transferred to a new ownership and to a location outside the  
4 quota area for which it was originally issued only when the  
5 following criteria are met:

6 (i) the total number of all-beverages licenses in the  
7 original quota area exceeded the quota for that area by at  
8 least 25% in the most recent census prescribed in 16-4-502;

9 (ii) the total number of all-beverages licenses in the  
10 quota area to which the license would be transferred,  
11 exclusive of those issued under [SUBSECTION (1)(A) OF  
12 section 2], did not exceed that area's quota in the most  
13 recent census prescribed in 16-4-502:

14 (A) by more than 33%; or

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

18 (iii) the department finds, after a public hearing,  
19 that the public convenience and necessity would be served by  
20 such a transfer.

21 (b) A license within an incorporated quota area may be  
22 transferred to a new ownership and to a new unincorporated  
23 location within the same county on application to and with  
24 consent of the department when the quota of the  
25 all-beverages licenses in the original quota area, exclusive

1 of those issued under [SUBSECTION (1)(A) OF section 2],  
 2 exceeds the quota for that area by at least 25% in the most  
 3 recent census and will not fall below that level because of  
 4 the transfer.

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

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

13 (e) A license issued under [SUBSECTION (1)(A) OF  
 14 section 2] may not be transferred to a location outside the  
 15 quota area and the exterior boundaries of the Montana Indian  
 16 reservation for which it was originally issued.

17 (2) (a) Any all-beverages licensee is, upon the  
 18 approval and in the discretion of the liquor division,  
 19 entitled to a catering endorsement to his all-beverages  
 20 license to allow the catering and sale of alcoholic  
 21 beverages to persons attending a special event upon premises  
 22 not otherwise licensed for the sale of alcoholic beverages,  
 23 such beverages to be consumed on the premises where the  
 24 event is held.

25 (b) A written application for a catering endorsement

1 and an annual fee of \$250 must be submitted to the  
 2 department for its approval.

3 (c) A written application for each event for which the  
 4 licensee intends to provide catering services, the written  
 5 approval of the catering application by the sponsor of the  
 6 special event, and a fee of \$35 must be filed with the  
 7 department at least 3 days prior to the event and shall  
 8 describe the location of the premises where the event is to  
 9 be held, the nature of the event, and the period during  
 10 which the event is to be held. An all-beverages licensee who  
 11 holds an endorsement granted under this subsection (2) may  
 12 not receive approval to cater an event of which he is the  
 13 sponsor. The catered event must be within 100 miles of the  
 14 licensee's regular place of business. If obtained, the  
 15 licensee shall display in a prominent place on those  
 16 premises, the written approval from the department for each  
 17 event which is catered pursuant to this subsection.

18 (d) The licensee shall file with each application for  
 19 an event to be catered a written statement of approval of  
 20 the premises where the event is to be held issued by the  
 21 department of health and environmental sciences and the  
 22 local law enforcement agency that has jurisdiction over the  
 23 premises where the event is to be held.

24 (e) The sale of alcoholic beverages pursuant to a  
 25 catering endorsement is subject to the provisions of

1 16-6-103.

2 (f) The sale of alcoholic beverages pursuant to a  
3 catering endorsement is subject to the provisions of  
4 16-3-306, unless entities named in 16-3-306 give their  
5 written approval."

6 NEW SECTION. Section 6. Codification instruction. (1)  
7 Section 1 is intended to be codified as an integral part of  
8 Title 16, chapter 4, part 1, and the provisions of Title 16,  
9 chapters 1 through 6, apply to section 1.

10 (2) Section 2 is intended to be codified as an  
11 integral part of Title 16, chapter 4, part 2, and the  
12 provisions of Title 16, chapters 1 through 6, apply to  
13 section 2.

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

18 NEW SECTION. Section 8. Effective date --  
19 applicability. This act is effective on passage and approval  
20 and applies only to tribal licensees who hold tribal  
21 licenses ~~on--the-effective-date-of-this-act~~ ISSUED PRIOR TO  
22 JANUARY 1, 1985, AND TO ENLISTED MEN'S, NONCOMMISSIONED  
23 OFFICERS', AND OFFICERS' CLUBS LOCATED ON FEDERAL MILITARY  
24 RESERVATIONS IN MONTANA ON [THE EFFECTIVE DATE OF THIS ACT].

-End-

# CONFERENCE COMMITTEE REPORT

Report No. ....1.....

April 22, 1985

MR. SPEAKER

We, your \_\_\_\_\_ **FREE** \_\_\_\_\_ Conference Committee on

**HOUSE BILL 924, reference copy - salmon**

met and considered \_\_\_\_\_

**Taxation Report of 4-9-85**

We recommend as follows:

1. Title, line 10.

Following: "ON"

Insert: "STATE OR"

2. Page 2, line 7; and page 3, line 3.

Following: "ON"

Insert: "state or"

3. Page 3, line 17; page 4, line 16; page 7, line 14; and page 11, line 10.

Following: "A"

Insert: "state or"

4. Page 12, line 11; and Page 13, line 1.

Following: "[SUBSECTION (1) (A)]"

Insert: "and (1) (b)"

5. Page 15, line 23.


Following: "ON"

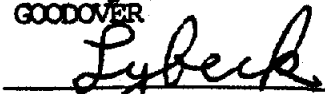
Insert: "state and"

And that this Conference Committee report be adopted.

FOR THE SENATE


  
NEUMAN, CHM

  
GOODOVER

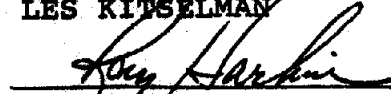
  
LYBECK

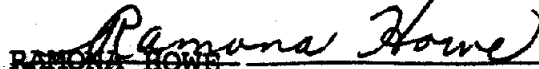
ADOPT REJECT

FOR THE HOUSE

  
RAY BRANDEWIE

  
LES KITSELMAN

  
RAY HARBIN

  
RAMONA HOWE

HOUSE BILL NO. 924

INTRODUCED BY BARDANOUVE

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING RETAIL ALCOHOLIC BEVERAGES LICENSES IN EXCESS OF STATE QUOTA LIMITATIONS TO BE ISSUED TO TRIBAL ALCOHOLIC BEVERAGES LICENSEES DOING BUSINESS ON MONTANA INDIAN RESERVATIONS AND TO ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND OFFICERS' CLUBS LOCATED ON STATE OR FEDERAL MILITARY RESERVATIONS; AMENDING SECTIONS 16-4-105, 16-4-201, AND 16-4-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE DATES."

WHEREAS, on July 1, 1983, the United States Supreme Court rendered its opinion in the case entitled Rice, Director, Department of Alcoholic Beverage Control of California v. Rehner, and held that Congress had delegated authority to the states, as well as to Indian tribes, to regulate the use and distribution of alcoholic beverages in Indian country; and

WHEREAS, the Montana Alcoholic Beverage Code limits the number of all-beverages licenses available in corporate city and county quota areas and the number of on-premises consumption retail beer licenses available in corporate city

quota areas; and

WHEREAS, the enforcement of Montana's alcoholic beverages license quota creates a hardship on tribal alcoholic beverages licensees in quota areas where no state licenses are available; AND

WHEREAS, THE ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND OFFICERS' CLUBS LOCATED ON STATE OR FEDERAL MILITARY RESERVATIONS IN MONTANA HAVE OPERATED FOR MANY YEARS AS FEDERAL ENCLAVES BEYOND THE JURISDICTION OF STATE LAWS RELATING TO LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES; AND

WHEREAS, EFFECTIVE DECEMBER 1, 1984, AIR NATIONAL GUARD REGULATION 215-2 REQUIRES ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND OFFICERS' CLUBS TO COMPLY WITH STATE LAWS RELATING TO LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES; AND

WHEREAS, THE ENFORCEMENT OF MONTANA'S ALCOHOLIC BEVERAGE LICENSE QUOTA CREATES A HARDSHIP FOR ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND OFFICERS' CLUBS, WHICH HAVE HISTORICALLY OPERATED AS SOCIAL CLUBS WITHOUT PROFIT MOTIVE AND WHICH DO NOT HAVE THE ECONOMIC CAPACITY TO COMPETE FOR LICENSES.

THEREFORE, the Legislature of the State of Montana determines it appropriate to make available retail alcoholic beverages licenses in excess of state quota limitations to



1 be issued to persons holding tribal alcoholic beverages  
 2 licenses and doing business on Montana Indian reservations  
 3 AND TO ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND  
 4 OFFICERS' CLUBS LOCATED ON STATE OR FEDERAL MILITARY  
 5 RESERVATIONS.

6  
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 NEW SECTION. Section 1. Exception EXCEPTIONS to limit  
 9 on retail beer licenses -- tribal alcoholic beverages  
 10 licensees AND ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND  
 11 OFFICERS' CLUBS. (1) Upon application and qualification, the  
 12 department shall issue a license to sell beer for  
 13 consumption on the premises to:

14 (A) a tribal alcoholic beverages licensee who operates  
 15 such business within the exterior boundaries of a Montana  
 16 Indian reservation UNDER A TRIBAL LICENSE ISSUED PRIOR TO  
 17 JANUARY 1, 1985;

18 (B) AN ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', OR  
 19 OFFICERS' CLUB LOCATED ON A STATE OR FEDERAL MILITARY  
 20 RESERVATION IN MONTANA on [the effective date of this act].

21 (2) A license issued under the provisions of  
 22 subsection (1) is not subject to the quota limitations of  
 23 16-4-105.

24 (3) Upon application and approval by the department, a  
 25 license issued under this-section SUBSECTION (1)(A) may be

1 transferred to another qualified applicant, but only to a  
 2 location within the quota area and the exterior boundaries  
 3 of the Montana Indian reservation for which the license was  
 4 originally issued.

5 (4) A license issued under this section is subject to  
 6 all statutes and rules governing licenses to sell beer at  
 7 retail for on-premises consumption.

8 NEW SECTION. Section 2. Exception EXCEPTIONS to limit  
 9 on all-beverages licenses -- tribal alcoholic beverages  
 10 licensees AND ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', AND  
 11 OFFICERS' CLUBS. (1) Upon application and qualification, the  
 12 department shall issue an all-beverages license to:

13 (A) a tribal alcoholic beverages licensee who operates  
 14 such business within the exterior boundaries of a Montana  
 15 Indian reservation UNDER A TRIBAL LICENSE ISSUED PRIOR TO  
 16 JANUARY 1, 1985;

17 (B) AN ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', OR  
 18 OFFICERS' CLUB LOCATED ON A STATE OR FEDERAL MILITARY  
 19 RESERVATION IN MONTANA on [the effective date of this act].

20 (2) A license issued under the provisions of  
 21 subsection (1) is not subject to the quota limitations of  
 22 16-4-201.

23 (3) Upon application and approval by the department, a  
 24 license issued under this-section SUBSECTION (1)(A) may be  
 25 transferred to another qualified applicant, but such license

1 may only be transferred to a location within the quota area  
2 and the exterior boundaries of the Montana Indian  
3 reservation for which the license was originally issued.

4 (4) A license issued under this section is subject to  
5 all statutes and rules governing all-beverages licenses.

6 Section 3. Section 16-4-105, MCA, is amended to read:

7 "16-4-105. Limit on retail beer licenses -- wine  
8 license amendments -- off-premises consumption. (1) Except  
9 as otherwise provided by law, a license to sell beer at  
10 retail or beer and wine at retail, in accordance with the  
11 provisions of this code and the rules of the department, may  
12 be issued to any person, firm, or corporation who is  
13 approved by the department as a fit and proper person, firm,  
14 or corporation to sell beer, except that:

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

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

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

7 (iii) in incorporated cities of over 2,000 inhabitants  
8 and within a distance of 5 miles from the corporate limits  
9 of such cities, four retail beer licenses for the first  
10 2,000 inhabitants, two additional retail beer licenses for  
11 the next 2,000 inhabitants or major fraction thereof, and  
12 one additional retail beer license for each additional 2,000  
13 inhabitants, which may not be used in conjunction with  
14 retail all-beverages licenses;

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

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

8 (c) retail beer licenses of issue on March 7, 1947,  
 9 and retail beer licenses issued under [section 1], and which  
 10 are in excess of the foregoing limitations shall be  
 11 renewable, but no new licenses may be issued in violation of  
 12 such limitations;

13 (d) such limitations do not prevent the issuance of a  
 14 nontransferable and nonassignable retail beer license to AN  
 15 ENLISTED MEN'S, NONCOMMISSIONED OFFICERS', OR OFFICERS' CLUB  
 16 LOCATED ON A STATE OR FEDERAL MILITARY RESERVATION ON [THE  
 17 EFFECTIVE DATE OF THIS ACT] OR TO a post of a nationally  
 18 chartered veterans' organization or a lodge of a recognized  
 19 national fraternal organization if such veterans' or  
 20 fraternal organization has been in existence for a period of  
 21 5 years or more prior to January 1, 1949;

22 (e) the number of retail beer licenses that the  
 23 department may issue for use at premises situated outside of  
 24 any incorporated city or incorporated town and outside of  
 25 the area within a distance of 5 miles from the corporate

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

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

20 (3) A retail license to sell beer or table wine, or  
 21 both, in the original packages for off-premises consumption  
 22 only may be issued to any person, firm, or corporation who  
 23 is approved by the department as a fit and proper person,  
 24 firm, or corporation to sell beer or table wine, or both,  
 25 and whose premises proposed for licensing are operated as a



1 bona fide grocery store or a drugstore licensed as a  
 2 pharmacy. The number of such licenses that the department  
 3 may issue is not limited by the provisions of subsection (1)  
 4 of this section but shall be determined by the department in  
 5 the exercise of its sound discretion, and the department may  
 6 in the exercise of its sound discretion grant or deny any  
 7 application for any such license or suspend or revoke any  
 8 such license for cause."

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

10 "16-4-201. All-beverages license quota. (1) Except as  
 11 otherwise provided by law, a license to sell liquor, beer,  
 12 and wine at retail (an all-beverages license) in accordance  
 13 with the provisions of this code and the rules of the  
 14 department may be issued to any person who is approved by  
 15 the department as a fit and proper person to sell such  
 16 beverages, except that the number of all-beverages licenses  
 17 that the department may issue for premises situated within  
 18 incorporated cities and incorporated towns and within a  
 19 distance of 5 miles from the corporate limits of such cities  
 20 and towns shall be determined on the basis of population  
 21 prescribed in 16-4-502 as follows:

22 (a) in incorporated towns of 500 inhabitants or less  
 23 and within a distance of 5 miles from the corporate limits  
 24 of such towns, not more than two retail licenses;

25 (b) in incorporated cities or incorporated towns of

1 more than 500 inhabitants and not over 3,000 inhabitants and  
 2 within a distance of 5 miles from the corporate limits of  
 3 such cities and towns, three retail licenses for the first  
 4 1,000 inhabitants and one retail license for each additional  
 5 1,000 inhabitants;

6 (c) in incorporated cities of over 3,000 inhabitants  
 7 and within a distance of 5 miles from the corporate limits  
 8 thereof, five retail licenses for the first 3,000  
 9 inhabitants and one retail license for each additional 1,500  
 10 inhabitants.

11 (2) The number of the inhabitants in such cities and  
 12 towns, exclusive of the number of inhabitants residing  
 13 within a distance of 5 miles from the corporate limits  
 14 thereof, shall govern the number of retail licenses that may  
 15 be issued for use within such cities and towns and within a  
 16 distance of 5 miles from the corporate limits thereof. If  
 17 two or more incorporated municipalities are situated within  
 18 a distance of 5 miles from each other, the total number of  
 19 retail licenses that may be issued for use in both of such  
 20 municipalities and within a distance of 5 miles from their  
 21 respective corporate limits shall be determined on the basis  
 22 of the combined populations of both of such municipalities  
 23 and may not exceed the foregoing limitations. The distance  
 24 of 5 miles from the corporate limits of any incorporated  
 25 city or incorporated town shall be measured in a straight

1 line from the nearest entrance of the premises proposed for  
2 licensing to the nearest corporate boundary of the city or  
3 town.

4 (3) Retail all-beverages licenses of issue on March 7,  
5 1947, and all-beverages licenses issued under [section 2],  
6 and which are in excess of the foregoing limitations shall  
7 be renewable, but no new licenses may be issued in violation  
8 of such limitations.

9 (4) Such limitations do not prevent the issuance of a  
10 nontransferable and nonassignable (as to ownership only)  
11 retail license to AN ENLISTED MEN'S, NONCOMMISSIONED  
12 OFFICERS', OR OFFICERS' CLUB LOCATED ON A STATE OR FEDERAL  
13 MILITARY RESERVATION ON [THE EFFECTIVE DATE OF THIS ACT] OR  
14 TO any post of a nationally chartered veterans' organization  
15 or any lodge of a recognized national fraternal organization  
16 if such veterans' or fraternal organization has been in  
17 existence for a period of 5 years or more prior to January  
18 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."

2 Section 5. Section 16-4-204, MCA, is amended to read:

3 "16-4-204. Transfer -- catering endorsement. (1) (a)  
4 Except as provided in subsection (1)(b), a license may be  
5 transferred to a new ownership and to a location outside the  
6 quota area for which it was originally issued only when the  
7 following criteria are met:

8 (i) the total number of all-beverages licenses in the  
9 original quota area exceeded the quota for that area by at  
10 least 25% in the most recent census prescribed in 16-4-502;

11 (ii) the total number of all-beverages licenses in the  
12 quota area to which the license would be transferred,  
13 exclusive of those issued under [SUBSECTION SUBSECTIONS  
14 (1)(A) AND (1)(B) OF section 2], did not exceed that area's  
15 quota in the most recent census prescribed in 16-4-502:

16 (A) by more than 33%; or

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

20 (iii) the department finds, after a public hearing,  
21 that the public convenience and necessity would be served by  
22 such a transfer.

23 (b) A license within an incorporated quota area may be  
24 transferred to a new ownership and to a new unincorporated  
25 location within the same county on application to and with

1 consent of the department when the quota of the  
 2 all-beverages licenses in the original quota area, exclusive  
 3 of those issued under [SUBSECTION SUBSECTIONS (1)(A) AND  
 4 (1)(B) OF section 2], exceeds the quota for that area by at  
 5 least 25% in the most recent census and will not fall below  
 6 that level because of the transfer.

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

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

15 (e) A license issued under [SUBSECTION (1)(A) OF  
 16 section 2] may not be transferred to a location outside the  
 17 quota area and the exterior boundaries of the Montana Indian  
 18 reservation for which it was originally issued.

19 (2) (a) Any all-beverages licensee is, upon the  
 20 approval and in the discretion of the liquor division,  
 21 entitled to a catering endorsement to his all-beverages  
 22 license to allow the catering and sale of alcoholic  
 23 beverages to persons attending a special event upon premises  
 24 not otherwise licensed for the sale of alcoholic beverages,  
 25 such beverages to be consumed on the premises where the

1 event is held.

2 (b) A written application for a catering endorsement  
 3 and an annual fee of \$250 must be submitted to the  
 4 department for its approval.

5 (c) A written application for each event for which the  
 6 licensee intends to provide catering services, the written  
 7 approval of the catering application by the sponsor of the  
 8 special event, and a fee of \$35 must be filed with the  
 9 department at least 3 days prior to the event and shall  
 10 describe the location of the premises where the event is to  
 11 be held, the nature of the event, and the period during  
 12 which the event is to be held. An all-beverages licensee who  
 13 holds an endorsement granted under this subsection (2) may  
 14 not receive approval to cater an event of which he is the  
 15 sponsor. The catered event must be within 100 miles of the  
 16 licensee's regular place of business. If obtained, the  
 17 licensee shall display in a prominent place on those  
 18 premises, the written approval from the department for each  
 19 event which is catered pursuant to this subsection.

20 (d) The licensee shall file with each application for  
 21 an event to be catered a written statement of approval of  
 22 the premises where the event is to be held issued by the  
 23 department of health and environmental sciences and the  
 24 local law enforcement agency that has jurisdiction over the  
 25 premises where the event is to be held.

1 (e) The sale of alcoholic beverages pursuant to a  
2 catering endorsement is subject to the provisions of  
3 16-6-103.

4 (f) The sale of alcoholic beverages pursuant to a  
5 catering endorsement is subject to the provisions of  
6 16-3-306, unless entities named in 16-3-306 give their  
7 written approval."

8 NEW SECTION. Section 6. Codification instruction. (1)  
9 Section 1 is intended to be codified as an integral part of  
10 Title 16, chapter 4, part 1, and the provisions of Title 16,  
11 chapters 1 through 6, apply to section 1.

12 (2) Section 2 is intended to be codified as an  
13 integral part of Title 16, chapter 4, part 2, and the  
14 provisions of Title 16, chapters 1 through 6, apply to  
15 section 2.

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

20 NEW SECTION. Section 8. Effective date --  
21 applicability. This act is effective on passage and approval  
22 and applies only to tribal licensees who hold tribal  
23 licenses ~~on-the-effective-date-of-this-act~~ ISSUED PRIOR TO  
24 JANUARY 1, 1985, AND TO ENLISTED MEN'S, NONCOMMISSIONED  
25 OFFICERS', AND OFFICERS' CLUBS LOCATED ON STATE AND FEDERAL

1 MILITARY RESERVATIONS IN MONTANA ON [THE EFFECTIVE DATE OF  
2 THIS ACT].

-End-