

SENATE BILL NO. 53

1/07 Introduced
1/07 Referred to Business & Industry
1/08 Rereferred to Taxation
1/24 Hearing
1/28 Committee Report-Bill Pass As Amended
1/30 2nd Reading Pass
2/01 3rd Reading Pass

Transmitted to House

2/27 Referred to Business & Labor
3/18 Hearing
3/20 Adverse Committee Report
3/21 Bill Killed

1 SENATE BILL NO. 53
2 INTRODUCED BY CRIPPEN
3 BY REQUEST OF THE DEPARTMENT OF REVENUE AND
4 THE REVENUE OVERSIGHT COMMITTEE
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FILING
7 REQUIREMENTS FOR ALCOHOLIC BEVERAGE CATERING ENDORSEMENTS
8 AND SPECIAL PERMITS; ALLOWING THE DEPARTMENT OF REVENUE TO
9 WAIVE THE FILING REQUIREMENTS; SUBJECTING SALES OF BEER AND
10 WINE UNDER SPECIAL PERMITS TO RESTRICTIONS ON PROXIMITY TO
11 SCHOOLS AND PLACES OF WORSHIP UNLESS APPROVAL IS OBTAINED;
12 AMENDING SECTIONS 16-4-204 AND 16-4-301, MCA; AND PROVIDING
13 EFFECTIVE DATES."

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

16 Section 1. Section 16-4-204, MCA, is amended to read:

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

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

25 (ii) the total number of all-beverages licenses in the

1 quota area to which the license would be transferred did not
2 exceed that area's quota in the most recent census
3 prescribed in 16-4-502:

- 4 (A) by more than 33%; or
- 5 (B) in an incorporated city of more than 10,000
6 inhabitants and within a distance of 5 miles from its
7 corporate limits by more than 43%; and
- 8 (iii) the department finds, after a public hearing,
9 that the public convenience and necessity would be served by
10 such a transfer.

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

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

24 (d) Once a license is transferred to a new quota area
25 under subsection (1)(a), it may not be transferred to



1 another quota area or back to the original quota area.

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

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

13 (c) A written application for each event for which the
14 licensee intends to provide catering services, the written
15 approval of the catering application by the sponsor of the
16 special event, and a fee of \$35 must be filed with the
17 department at least 3 days prior to the event and shall
18 describe the location of the premises where the event is to
19 be held, the nature of the event, and the period during
20 which the event is to be held. The department may waive the
21 3-day filing requirement and may accept written application
22 submitted without the form prescribed by the department but
23 may not waive payment of the fee. An all-beverages licensee
24 who holds an endorsement granted under this subsection (2)
25 may not receive approval to cater an event of which he is

1 the sponsor. The catered event must be within 100 miles of
2 the 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 Section 2. Section 16-4-301, MCA, is amended to read:
20 "16-4-301. Special permits to sell all alcoholic
21 beverages, beer, and table wine -- application and issuance.
22 (1) (a) Any association or corporation conducting a picnic,
23 convention, fair, civic or community enterprise, or sporting
24 event shall in the discretion of the liquor division be
25 entitled to a special permit to sell beer and table wine to

1 the patrons of such event to be consumed within the
2 enclosure wherein the event is held.

3 (b) The application of any such association or
4 corporation and the permit fee shall be presented 3 days in
5 advance and shall describe the location of such enclosure
6 where such event is to be held, the nature of the event, and
7 the period when it is contemplated that the event will be
8 held. The department may waive the 3-day filing requirement
9 and may accept written application submitted without the
10 form prescribed by the department but may not waive payment
11 of the permit fee. The application shall be accompanied by
12 ~~the amount of the permit fee~~ and a written statement of
13 approval of the premises where the event is to be held
14 issued by the department of health and environmental
15 sciences and the local law enforcement agency that has
16 jurisdiction over the premises where the event is to be
17 held.

18 (c) The permit issued to such association or
19 corporation is a special permit but shall not authorize the
20 sale of beer and table wine except starting 1 day in advance
21 of the regular period when events are being held upon such
22 grounds and during the period described in the application
23 and for 1 day thereafter.

24 (d) The sale of beer or wine, or both, pursuant to a
25 special permit is subject to the provisions of 16-3-306

1 unless the governing entity of each affected place of
2 worship or school gives its written approval for such sale.

3 (2) (a) A post of a nationally chartered veterans'
4 organization or a lodge of a recognized national fraternal
5 organization not otherwise licensed under this code shall,
6 in the discretion of the department, without notice or
7 hearing as provided in 16-4-207, be entitled to a special
8 permit to sell beer and table wine or a special permit to
9 sell all alcoholic beverages at such post or lodge to
10 members and their guests only, to be consumed within the
11 hall or building of such post or lodge.

12 (b) The application of such nationally chartered
13 veterans' organization or lodge of a recognized national
14 fraternal organization shall describe the location of the
15 hall or building where the special permit will be used and
16 the date it will be used.

17 (c) The special permit issued shall be for a 24-hour
18 period only, ending at 2 a.m., and the department may not
19 issue more than 12 such permits to any such post or lodge
20 during a calendar year."

21 NEW SECTION. Section 3. Extension of authority. Any
22 existing authority of the department of revenue to make
23 rules on the subject of the provisions of this act is
24 extended to the provisions of this act.

25 NEW SECTION. Section 4. Authority to proceed with

1 rulemaking. The department of revenue may initiate
2 rulemaking proceedings under section 3 on or after passage
3 and approval of this act, but no rules under section 3 may
4 be made effective prior to the effective date of sections 1
5 and 2.

6 NEW SECTION. Section 5. Coordination instruction. If
7 Senate Bill 52, including the sections of that bill amending
8 16-4-204 and 16-4-301, is passed and approved, section 1 of
9 this act, amending 16-4-204 is void, and section 2 of this
10 act, amending 16-4-301, is void except that the new language
11 included as 16-4-301(1)(d) in section 2 of this act is
12 effective.

13 NEW SECTION. Section 6. Effective dates. Sections 1,
14 2, and 5 of this act are effective July 1, 1985. Sections 3
15 and 4 are effective upon passage and approval.

-End-

Re-referred and
APPROVED BY COMMITTEE
ON TAXATION

1 SENATE BILL NO. 53
 2 INTRODUCED BY CRIPPEN
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE AND
 4 THE REVENUE OVERSIGHT COMMITTEE

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 7 REQUIREMENTS--FOR--ALCOHOLIC--BEVERAGE-CATERING-ENDORSEMENTS
 8 AND-SPECIAL--PERMITS; PROVIDING INCREASED FLEXIBILITY IN
 9 TRANSFERRING ALL-BEVERAGES LICENSES BY REVISING TRANSFER
 10 QUOTA LIMITATIONS; ELIMINATING THE PROHIBITION OF
 11 TRANSFERRING A PREVIOUSLY TRANSFERRED LICENSE; REDUCING THE
 12 ANNUAL FEE FOR A CATERING LICENSE; REVISING THE PROCEDURE
 13 FOR A CATERING ENDORSEMENT; REDUCING THE FEE FOR CATERING AN
 14 EVENT; ALLOWING THE DEPARTMENT OF REVENUE TO WAIVE THE
 15 CERTAIN FILING REQUIREMENTS FOR SPECIAL PERMITS; SUBJECTING
 16 SALES-OF-BEER-AND-WINE-UNDER-SPECIAL-PERMITS-TO-RESTRICTIONS
 17 ON--PROXIMITY--TO--SCHOOLS--AND--PLACES--OF--WORSHIP--UNLESS
 18 APPROVAL--IS--OBTAINED ALLOWING LOCAL HEALTH DEPARTMENT
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 14 inhabitants and within a distance of 5 miles from its
 15 corporate limits by more than 43% 50%; and
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 17 that the public convenience and necessity would be served by
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 19 (b) A license within an incorporated quota area may be
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 25 census and will not fall below that level because of the

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2 (c) For 5 years after the transfer of a license
3 between quota areas under subsection (1)(a), the license may
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5 transferred to another person except for a transfer by
6 inheritance upon the death of the licensee.

7 ~~(d) Once a license is transferred to a new quota area
8 under subsection (1)(a), it may not be transferred to
9 another quota area or back to the original quota area.~~

10 (2) (a) Any all-beverages licensee is, upon the
11 approval and in the discretion of the liquor division,
12 entitled to a catering endorsement to his all-beverages
13 license to allow the catering and sale of alcoholic
14 beverages to persons attending a ONE OR MORE special event
15 EVENTS upon premises not otherwise licensed for the sale of
16 alcoholic beverages, such beverages to be consumed on the
17 premises where the SUCH AN event is held.

18 (b) ~~A written application~~ THE ANNUAL FEE for a
19 catering endorsement ~~and an annual fee of \$250 must be~~
20 ~~submitted to the department for its approval~~ IS \$125 AND THE
21 FEE FOR EACH EVENT CATERED IS \$5 A DAY.

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2 ~~describe~~ THERE MUST BE FILED WITH THE DEPARTMENT:

3 (I) A STATEMENT FOR EACH EVENT FOR WHICH THE LICENSEE
4 INTENDS TO PROVIDE CATERING SERVICES, DESCRIBING the
5 location of the premises where the event is to be held, the
6 nature of the event, and the period during which the event
7 is to be held; AND

8 (II) A WRITTEN STATEMENT OF APPROVAL OF THE PREMISES BY
9 THE LOCAL LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION OVER
10 THE PREMISES WHERE THE EVENT IS TO BE HELD AND EITHER THE
11 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES OR THE LOCAL
12 HEALTH DEPARTMENT THAT HAS JURISDICTION OVER THE PREMISES
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15 submitted without the form prescribed by the department but
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18 may not receive approval to cater an event of which he is
19 the sponsor. The catered event must be within 100 miles of
20 the licensee's regular place of business. If obtained, the
21 licensee shall display in a prominent place on those
22 premises, the written approval from the department for each
23 event which is catered pursuant to this subsection.

24 ~~(d) The licensee shall file with each application for~~
25 ~~an event to be catered a written statement of approval of~~

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 2 ~~department of health and environmental sciences and the~~
 3 ~~local law enforcement agency that has jurisdiction over the~~
 4 ~~premises where the event is to be held.~~

5 (D) AN ALL-BEVERAGES LICENSEE WHO HOLDS A CATERING
 6 ENDORSEMENT GRANTED UNDER THIS SUBSECTION (2) MAY NOT CATER
 7 ONE EVENT OR EVENTS IN ONE LOCATION FOR MORE THAN 30 DAYS
 8 WITHIN EACH CALENDAR YEAR.

9 (e) The sale of alcoholic beverages pursuant to a
 10 catering endorsement is subject to the provisions of
 11 16-6-103.

12 (f) The sale of alcoholic beverages pursuant to a
 13 catering endorsement is subject to the provisions of
 14 16-3-306, unless entities named in 16-3-306 give their
 15 written approval."

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 23 the patrons of such event to be consumed within the
 24 enclosure wherein the event is held.

25 (b) The application of any such association or

1 corporation and the permit fee shall be presented 3 days in
 2 advance and shall describe the location of such enclosure
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 19 corporation is a special permit but shall not authorize the
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~~unless the governing entity of each affected place of
worship or school gives its written approval for such sale.~~

(2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code shall, in the discretion of the department, without notice or hearing as provided in 16-4-207, be entitled to a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at such post or lodge to members and their guests only, to be consumed within the hall or building of such post or lodge.

(b) The application of such nationally chartered veterans' organization or lodge of a recognized national fraternal organization shall describe the location of the hall or building where the special permit will be used and the date it will be used.

(c) The special permit issued shall be for a 24-hour period only, ending at 2 a.m., and the department may not issue more than 12 such permits to any such post or lodge during a calendar year."

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

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rulemaking. The department of revenue may initiate rulemaking proceedings under section 3 on or after passage and approval of this act, but no rules under section 3 may be made effective prior to the effective date of sections 1 and 2.

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24 ~~(d)--The--sale--of--beer--or--wine--or--both--pursuant--to--a~~
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NEW SECTION. Section 4. Authority to proceed with

rulemaking. The department of revenue may initiate rulemaking proceedings under section 3 on or after passage and approval of this act, but no rules under section 3 may be made effective prior to the effective date of sections 1 and 2.

~~NEW SECTION. Section 5. Coordination instruction. If Senate Bill 527, including the sections of that bill amending 16-4-204 and 16-4-301, is passed and approved, section 1 of this act, amending 16-4-204 is void, and section 2 of this act, amending 16-4-301, is void except that the new language included as 16-4-301(i)(d) in section 2 of this act is effective.~~

NEW SECTION. Section 5. Effective dates. Sections 1, 2, and 5 of this act are effective July 1, 1985. Sections 3 and 4 are effective upon passage and approval.

-End-