

HOUSE BILL NO. 133

INTRODUCED BY M. WILLIAMS, BLAYLOCK, HARRINGTON,
MAZUREK, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

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| JANUARY 9, 1987 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR. |
| JANUARY 27, 1987 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| JANUARY 28, 1987 | PRINTING REPORT. |
| JANUARY 29, 1987 | SECOND READING, DO PASS. |
| JANUARY 30, 1987 | ENGROSSING REPORT. |
| | THIRD READING, PASSED. |
| | TRANSMITTED TO SENATE. |

IN THE SENATE

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| FEBRUARY 2, 1987 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY. |
| FEBRUARY 20, 1987 | COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED. |
| MARCH 2, 1987 | SECOND READING, CONCURRED IN. |
| MARCH 4, 1987 | THIRD READING, CONCURRED IN. AYES, 50; NOES, 0. |
| | RETURNED TO HOUSE. |

IN THE HOUSE

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| MARCH 5, 1987 | RECEIVED FROM SENATE. |
| | SENT TO ENROLLING. |

1 H. B. BILL NO. 133
 2 INTRODUCED BY M Williams Blaylock Harrington
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE Wojcik
 4 Bob Brown HART

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CONSISTENT
 6 CERTAIN TERMS IN THE MONTANA ALCOHOLIC BEVERAGE CODE; AND
 7 AMENDING SECTIONS 16-1-101, 16-1-104 THROUGH 16-1-106,
 8 16-1-201, 16-1-204, 16-1-303, 16-1-405, 16-2-101, 16-2-103,
 9 16-2-104, 16-2-106 THROUGH 16-2-108, 16-2-203, 16-2-302,
 10 16-3-101, 16-3-105, 16-3-106, 16-3-310, 16-3-401, 16-4-106,
 11 16-4-108, 16-4-201, 16-4-202, 16-4-208, 16-4-302, 16-4-401,
 12 16-4-404, 16-4-405, 16-4-411, 16-4-501, 16-6-104, 16-6-301,
 13 16-6-305, 16-6-306, 16-6-309, 16-6-312, AND 16-6-313, MCA."

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

16 Section 1. Section 16-1-101, MCA, is amended to read:

17 "16-1-101. Citation -- declaration of policy --
 18 subject matters of regulation. (1) Chapters 1 through 6 of
 19 this title may be cited as the "Montana Alcoholic Beverage
 20 Code".

21 (2) It is hereby declared to be the policy of the
 22 state of Montana to effectuate and ensure the entire control
 23 of the manufacture, sale, and distribution of liquor
 24 alcoholic beverages within the state of Montana, as that
 25 term is defined in this code, subject to the authority of

1 the state of Montana through the Montana department of
 2 revenue.

3 (3) This code is an exercise of the police power of
 4 the state, in and for the protection of the welfare, health,
 5 peace, morals, and safety of the people of the state, and
 6 its provisions shall be construed for the accomplishment of
 7 such purposes."

8 Section 2. Section 16-1-104, MCA, is amended to read:

9 "16-1-104. Intent and construction of code. The
 10 purpose and intent of this code are to prohibit transactions
 11 in liquor alcoholic beverages which take place wholly within
 12 the state of Montana except under state control as
 13 specifically provided by this code, and every section and
 14 provision of this code shall be construed accordingly. The
 15 provisions of this code dealing with the importation, sale,
 16 and disposition of liquor alcoholic beverages within the
 17 state, through the instrumentality of a department and
 18 otherwise, provide the means by which such state control
 19 shall be made effective, and nothing in this code shall be
 20 construed as forbidding, affecting, or regulating any
 21 transaction which is not subject to the legislative
 22 authority of the state."

23 Section 3. Section 16-1-105, MCA, is amended to read:

24 "16-1-105. Divisions of code. This code is divided
 25 into six chapters. Chapter 1 relates to the authority of



1 the department of revenue to administer this code and the
 2 powers and functions of the department. Chapter 2 relates to
 3 the establishment of state stores and the keeping and
 4 selling of liquors. Chapter 3 relates to the control of
 5 liquor, wine, and beer. Chapter 4 relates to license
 6 administration. Chapter 5 ~~relates~~ (now repealed) related to
 7 identification cards. Chapter 6 relates to enforcement."

8 Section 4. Section 16-1-106, MCA, is amended to read:

9 "16-1-106. Definitions. As used in this code, the
 10 following definitions apply:

11 (1) "Agency agreement" means an agreement between the
 12 department and a person appointed to sell liquor and table
 13 wine as a commission merchant rather than as an employee.

14 (2) "Alcohol" means ethyl alcohol, also called
 15 ethanol, or the hydrated oxide of ethyl.

16 (3) "Alcoholic beverage" means a compound produced and
 17 sold for human consumption as a drink that contains more
 18 than .5% of alcohol by volume.

19 (4) "Beer" means a malt beverage containing not more
 20 than 7% of alcohol by weight.

21 (5) "Beer importer" means a person other than a brewer
 22 who imports malt beverages.

23 (6) "Brewer" means a person who produces malt
 24 beverages.

25 (7) "Department" means the department of revenue.

1 (8) "Immediate family" means a spouse, dependent
 2 children, or dependent parents.

3 (9) "Import" means to transfer beer or table wine from
 4 outside the state of Montana into the state of Montana.

5 (10) "Industrial use" means a use described as
 6 industrial use by the federal Alcohol Administration Act and
 7 the federal rules and regulations of 27 CFR.

8 (11) "Liquor" means an alcoholic beverage except beer
 9 and table wine.

10 (12) "Malt beverage" means an alcoholic beverage made
 11 by the fermentation of an infusion or decoction, or a
 12 combination of both, in potable brewing water, of malted
 13 barley with or without hops or their parts or their products
 14 and with or without other malted cereals and with or without
 15 the addition of unmalted or prepared cereals, other
 16 carbohydrates, or products prepared therefrom and with or
 17 without other wholesome products suitable for human food
 18 consumption.

19 (13) "Package" means a container or receptacle used for
 20 holding an alcoholic beverage.

21 (14) "Posted price" means the retail price of liquor
 22 and table wine as fixed and determined by the department and
 23 in addition thereto an excise and license tax as provided in
 24 this code.

25 (15) "Proof gallon" means a U.S. gallon of liquor at 60

1 degrees on the Fahrenheit scale that contains 50% of alcohol
2 by volume.

3 (16) "Public place" means a place, building, or
4 conveyance to which the public has or may be permitted to
5 have access and any place of public resort.

6 (17) "Rules" means rules published by the department
7 pursuant to this code.

8 (18) "State liquor facility" means a facility owned or
9 under control of the department for the purpose of
10 receiving, storing, transporting, or selling alcoholic
11 beverages.

12 (19) "State liquor store" means a retail store operated
13 by the department in accordance with this code for the
14 purpose of selling liquor and table wine.

15 (20) "Storage depot" means a building or structure
16 owned or operated by a brewer at any point in the state of
17 Montana off and away from the premises of a brewery, and
18 which structure is equipped with refrigeration or cooling
19 apparatus for the storage of beer and from which a brewer
20 may sell or distribute beer as permitted by this code.

21 (21) "Subwarehouse" means a building or structure owned
22 or operated by a licensed beer wholesaler or table wine
23 distributor, located at a site in Montana other than the
24 site of such beer wholesaler's or table wine distributor's
25 warehouse or principal place of business, and used for the

1 receiving, storage, and distribution of beer or table wine
2 as permitted by this code.

3 (22) "Table wine" means wine as defined below which
4 contains not more than 16% alcohol by volume.

5 (23) "Warehouse" means a building or structure located
6 in Montana owned or operated by a licensed beer wholesaler
7 or table wine distributor for the receiving, storage, and
8 distribution of beer or table wine as permitted by this
9 code.

10 (24) "Wine" means an alcoholic beverage made from or
11 containing the normal alcoholic fermentation of the juice of
12 sound, ripe fruit or other agricultural products without
13 addition or abstraction, except as may occur in the usual
14 cellar treatment of clarifying and aging, and that contains
15 more than 0.5% but not more than 24% of alcohol by volume.
16 Wine may be ameliorated to correct natural deficiencies,
17 sweetened, and fortified in accordance with applicable
18 federal regulations and the customs and practices of the
19 industry. Other alcoholic beverages not defined as above
20 but made in the manner of wine and labeled and sold as wine
21 in accordance with federal regulations are also wine."

22 Section 5. Section 16-1-201, MCA, is amended to read:

23 "16-1-201. Acts not covered by code. (1) Nothing in
24 this code shall prevent any brewer, distiller, or other
25 person, duly licensed under the provisions of any statute of

1 the United States of America for the manufacture of liquor
 2 alcoholic beverages, from having or keeping liquor alcoholic
 3 beverages in a place and in the manner authorized by or
 4 under any such statute.

5 (2) It is hereby declared to be the policy of the
 6 state of Montana that the manufacture of liquor alcoholic
 7 beverages, including the distillation, rectification,
 8 bottling, and processing as these terms are defined under
 9 the provisions of the laws of the United States, shall be
 10 authorized and permitted by any brewer, distiller,
 11 rectifier, or other person duly licensed under any provision
 12 of any statute of the United States of America in a place
 13 and in the manner authorized by or under any statute of the
 14 United States, provided the department may make such rules
 15 as the department deems necessary with respect thereto not
 16 inconsistent with this code or with the statutes of the
 17 United States of America or regulations issued under the
 18 provisions of the federal Alcohol Administration Act, Title
 19 27, United States Code, sections 201 through 212, inclusive,
 20 or regulations issued under the provisions of the Internal
 21 Revenue Code, Title 26, United States Code, sections 5001
 22 through 5693, inclusive.

23 (3) Nothing in this code shall prevent:

24 (a) the sale of liquor or table wine by any person to
 25 the department;

1 (b) the purchase, importation, and sale of liquor and
 2 table wine by the department for the purposes of and in
 3 accordance with this code."

4 Section 6. Section 16-1-204, MCA, is amended to read:

5 "16-1-204. Licensed hospital or health care facility.

6 Any person in charge of an institution regularly conducted
 7 as a licensed hospital or health care facility may
 8 administer liquor alcoholic beverages purchased by him to
 9 any patient or inmate of the institution and may charge for
 10 the liquor alcoholic beverages so administered."

11 Section 7. Section 16-1-303, MCA, is amended to read:

12 "16-1-303. Department rules. (1) The department may
 13 make such rules not inconsistent with this code as to the
 14 department seem necessary for carrying out the provisions of
 15 this code and for the efficient administration thereof.

16 (2) Without thereby limiting the generality of the
 17 provisions contained in subsection (1) hereof, it is
 18 declared that the power of the department to make rules in
 19 the manner set out in that subsection shall extend to and
 20 include the following:

21 (a) regulating the equipment and management of state
 22 stores and warehouses in which liquor or table wine is kept
 23 or sold and prescribing the books and records to be kept
 24 therein;

25 (b) prescribing the duties of the employees of the

1 liquor division and regulating their conduct while in the
2 discharge of their duties;

3 (c) governing the purchase of liquor and table wine
4 and the furnishing of liquor and table wine to state stores
5 established under this code;

6 (d) determining the classes, varieties, and brands of
7 liquor and table wine to be kept for sale at any state
8 store;

9 (e) prescribing, subject to this code, the hours
10 during which state liquor stores shall be kept open for the
11 sale of alcoholic beverages;

12 (f) providing for the issuing and distributing of
13 price lists showing the price to be paid by purchasers for
14 each class, variety, or brand of liquor and table wine kept
15 for sale under this code;

16 (g) prescribing forms to be used for the purpose of
17 this code or of the rules made thereunder and the terms and
18 conditions in permits and licenses issued and granted under
19 this code;

20 (h) prescribing the form of records of purchase of
21 liquor and table wine and the reports to be made thereon to
22 the division and providing for inspection of the records so
23 kept;

24 (i) prescribing the manner of giving and serving
25 notices required by this code or the rules thereunder;

1 (j) prescribing the fees payable in respect of permits
2 and licenses issued under this code for which no fees are
3 prescribed in this code and prescribing the fees for
4 anything done or permitted to be done under the rules made
5 thereunder;

6 (k) prescribing, subject to the provisions of this
7 code, the conditions and qualifications necessary for the
8 obtaining of ~~a--liquor--or--beer--license~~ alcoholic beverage
9 licenses and the books and records to be kept and the
10 returns to be made by the licensees and providing for the
11 inspection of such licensed premises;

12 (l) specifying and describing the place and the manner
13 in which ~~liquor--or--beer~~ alcoholic beverages may be lawfully
14 kept or stored;

15 (m) specifying and regulating the time and periods
16 when and the manner, methods, and means by which vendors and
17 brewers shall deliver ~~liquor~~ alcoholic beverages under this
18 code and the time and periods when and the manner, methods,
19 and means by which ~~liquor~~ alcoholic beverages, under this
20 code, may be lawfully conveyed or carried;

21 (n) governing the conduct, management, and equipment
22 of any premises licensed to sell ~~liquor--or--beer~~ alcoholic
23 beverages under this code;

24 (o) providing for the imposition and collection of
25 taxes and making rules respecting returns, accounting, and

1 payment of the taxes to the department.

2 (3) Whenever it is provided in this code that any act,
3 matter, or thing may be done if permitted or authorized by
4 the rules or may be done in accordance with the rules or as
5 provided by the rules, the department, subject to the
6 restrictions set out in subsection (1) hereof, shall have
7 the power to make rules respecting such act, matter, or
8 thing."

9 Section 8. Section 16-1-405, MCA, is amended to read:

10 "16-1-405. Use of license tax proceeds. The license
11 tax moneys when so apportioned shall be deposited to the
12 credit of the general funds of said incorporated cities,
13 towns, and counties and shall be expended by said
14 incorporated cities, towns, and counties for law enforcement
15 and the regulation and control of the sale of liquor
16 alcoholic beverages and the use thereof."

17 Section 9. Section 16-2-101, MCA, is amended to read:

18 "16-2-101. Establishment and closure of state liquor
19 stores -- kinds and prices of liquor and table wine. (1) (a)
20 The department shall establish and maintain one or more
21 stores, to be known as "state liquor stores", as the
22 department finds feasible for the sale of liquor and table
23 wine in accordance with the provisions of this code and the
24 rules made thereunder.

25 (b) The department shall enter into an agency

1 agreement or employ the necessary help to operate said
2 stores and shall designate the duties to be performed by the
3 agent or employees.

4 (2) The department may from time to time fix the
5 prices at which the various classes, varieties, and brands
6 of liquor and table wine may be sold, and prices shall be
7 the same at all state stores."

8 Section 10. Section 16-2-103, MCA, is amended to read:

9 "16-2-103. Duplicate invoices of sales required. (1)
10 The state liquor store shall, upon each sale of liquor or
11 table wine to any licensee, issue a duplicate invoice of the
12 liquor or table wine purchased, as provided by the
13 department, a copy of which shall be delivered to the
14 licensee and one copy retained at such store.

15 (2) The invoice shall show the date of purchase, name
16 of employee making the sale, the quantity of each kind of
17 liquor or table wine purchased, the price paid therefor, the
18 name of the licensee, and the number of the license, with
19 such other information as may be required by the department.

20 (3) The licensee shall keep and retain his duplicate
21 invoice of all purchases made by him from the state liquor
22 store, which shall at all times be subject to inspection by
23 the duly authorized officers, agents, and employees of the
24 department."

25 Section 11. Section 16-2-104, MCA, is amended to read:

1 "16-2-104. Hours. (1) State liquor stores shall be and
 2 remain open during such period of the day as the department
 3 shall deem advisable. The stores shall be closed for the
 4 transaction of business on legal holidays and between the
 5 close of normal business Saturday p.m. up to the opening of
 6 normal business Tuesday a.m. as set by department rule.

7 (2) No sale or delivery of liquor or table wine shall
 8 be made on or from the premises of any state liquor store
 9 nor shall any store be open for the sale of liquor or table
 10 wine:

11 (a) on any holiday recognized by state law;

12 (b) during such other period and on such other days as
 13 the department may direct."

14 Section 12. Section 16-2-106, MCA, is amended to read:

15 "16-2-106. Purchase price in advance. A store manager
 16 may sell to any person such liquor and table wine as that
 17 person is entitled to purchase in conformity with the
 18 provisions of this code and the rules made thereunder,
 19 provided that no delivery shall take place until the
 20 purchaser has paid the purchase price."

21 Section 13. Section 16-2-107, MCA, is amended to read:

22 "16-2-107. No open liquor alcoholic beverage container
 23 or liquor alcoholic beverage consumption on premises of
 24 state store. No officer, clerk, or agent of the department
 25 employed in a state store shall allow any liquor alcoholic

1 beverage container to be opened on the premises of a state
 2 store or allow any liquor alcoholic beverage to be consumed
 3 on the premises of a state store, nor shall any person open
 4 a liquor alcoholic beverage container or consume any
 5 liquor alcoholic beverage on such premises."

6 Section 14. Section 16-2-108, MCA, is amended to read:

7 "16-2-108. Disposition of money received. All moneys
 8 received from the sale of liquor and table wine at the state
 9 liquor stores shall be deposited in the enterprise fund in
 10 the state treasury to the credit of the department. The
 11 department is hereby authorized to purchase liquor and table
 12 wine from moneys deposited to its account in the enterprise
 13 fund. The department shall pay from its account in the
 14 enterprise fund its administrative expenses, subject to the
 15 limits imposed by legislative appropriation. No obligation
 16 created or incurred by the department may ever be or become
 17 a debt or claim against the state of Montana but shall be
 18 payable by the department solely from funds derived from the
 19 operation of state liquor stores. The department shall pay
 20 into the state treasury to the credit of the general fund
 21 the receipts from all taxes and licenses collected by it and
 22 also the net proceeds from the operation of state liquor
 23 stores."

24 Section 15. Section 16-2-203, MCA, is amended to read:

25 "16-2-203. Department sales to licensees. The

1 department may sell through its stores to licensees licensed
 2 under this code all kinds of liquor, ~~wine containing more~~
 3 ~~than 14% alcohol by volume, and cordials kept in stock, and~~
 4 table wine at the posted price thereof in the store in which
 5 the liquor is and table wine are sold. All sales shall be
 6 upon a cash basis."

7 Section 16. Section 16-2-302, MCA, is amended to read:

8 "16-2-302. State distribution. The department may
 9 import and distribute one or more named table wines to one
 10 or more designated state liquor stores, in the same manner
 11 as if the ~~table wine~~ contained more than ~~14%~~ 16% alcohol by
 12 volume."

13 Section 17. Section 16-3-101, MCA, is amended to read:

14 "16-3-101. Liquor Alcoholic beverages dispensed only
 15 in accordance with code. No brewer, beer importer,
 16 distiller, or manufacturer of liquor alcoholic beverages
 17 shall, within the state, by himself, his clerk, servant, or
 18 agent, give to any person any liquor alcoholic beverage
 19 except as may be permitted by and in accordance with the
 20 rules made under this code."

21 Section 18. Section 16-3-105, MCA, is amended to read:

22 "16-3-105. Restrictions on liquor alcoholic beverages
 23 in hotels. Except in the case of ~~liquor or beer~~ alcoholic
 24 beverages kept or consumed in premises for which a license
 25 has been granted under the law and which form a part of a

1 hotel, no person shall:

2 (1) keep or consume liquor alcoholic beverages in any
 3 part of a hotel other than a private guest room;

4 (2) keep or have any liquor alcoholic beverage in any
 5 room in a hotel unless he is a bona fide guest of the hotel
 6 and is duly registered in the office of the hotel as an
 7 occupant of that room."

8 Section 19. Section 16-3-106, MCA, is amended to read:

9 "16-3-106. Conveyance of liquors, table wines, and
 10 beer -- opening liquor alcoholic beverages during transit
 11 forbidden. (1) It shall be lawful to carry or convey liquor
 12 or table wine to any state store and to and from any
 13 warehouse or depot established by the department for the
 14 purposes of this code, and when permitted to do so by this
 15 code and the rules made thereunder and in accordance
 16 therewith, it shall be lawful for any common carrier or
 17 other person to carry or convey liquor or table wine sold by
 18 a vendor from a state store or beer, when lawfully sold by a
 19 brewer, from the premises wherein such beer was manufactured
 20 or from premises where the beer may be lawfully kept and
 21 sold to any place to which the same may be lawfully
 22 delivered under this code and the rules made thereunder.

23 (2) No common carrier or any other person shall open,
 24 break, or allow to be opened or broken any package or vessel
 25 containing liquor an alcoholic beverage or drink or use or

1 allow to be drunk or used any ~~liquor~~ alcoholic beverage
2 therefrom while being carried or conveyed."

3 Section 20. Section 16-3-310, MCA, is amended to read:

4 "16-3-310. Lapse of license for nonuse. Any retail
5 license issued pursuant to this code (including any retail
6 license to sell beer and table wine for off-premises
7 consumption) not actually used in a going establishment for
8 90 days shall automatically lapse. Upon determining the
9 fact of nonuse for such period, the department shall cancel
10 such license of record and no portion of the fee paid
11 therefor shall be refundable. The provisions of this
12 section shall not apply to the license of any licensee whose
13 premises are operated on a seasonal basis in connection with
14 a bona fide dude ranch, resort, park hotel, tourist
15 facility, or like business, provided such licensee has
16 secured written authority from the department to close and
17 has licensed premises for a specified period of greater than
18 90 days' duration. Should the department determine that
19 such lapse was reasonably beyond the control of the
20 licensee, then the lapse provision shall not apply."

21 Section 21. Section 16-3-401, MCA, is amended to read:

22 "16-3-401. Public policy. The public policy of the
23 state of Montana is to maintain a system for the importation
24 and sale of table wine by the state through state liquor
25 facilities and provide for, regulate, and control the

1 acquisition, importation, and distribution of table wine
2 ~~containing--not--more--than--14%--alcohol--by--volume~~ by licensed
3 table wine distributors and the state."

4 Section 22. Section 16-4-106, MCA, is amended to read:

5 "16-4-106. Beer and table wine license transfers. A
6 transfer of any brewer's, beer wholesaler's, table wine
7 distributor's, beer retailer's, or table wine retailer's
8 license may be made on application to the department with
9 the consent of the department, provided that the transferee
10 qualifies under this code."

11 Section 23. Section 16-4-108, MCA, is amended to read:

12 "16-4-108. Wine Table wine distributor's license. (1)
13 Any person desiring to sell and distribute table wine at
14 wholesale to retailers under the provisions of this code
15 shall apply to the department of revenue for a license to do
16 so and shall tender with his application the annual license
17 fee of \$400 and the department may issue licenses to
18 qualified applicants in accordance with the provisions of
19 this code.

20 (2) All table wine distributors' licenses issued in
21 any year expire on June 30 at midnight of such year.

22 (3) No license fee may be imposed upon table wine
23 distributors by a municipality or any other political
24 subdivision of the state.

25 (4) The license shall be at all times prominently

1 displayed in the place of business of such table wine
2 distributor.

3 (5) An applicant shall have a fixed place of business,
4 sufficient capital, the facilities, storehouse, receiving
5 house or warehouse for the receiving of, storage, handling,
6 and moving of table wine in large and jobbing quantities for
7 distribution and sale in original packages to other licensed
8 table wine distributors or licensed retailers. Each table
9 wine distributor is entitled to only one wholesale table
10 wine license, which license shall be issued for his
11 principal place of business in Montana. A duplicate license
12 may be issued for one subwarehouse only in Montana for each
13 table wine distributor's license. The duplicate license
14 shall at all times be prominently displayed at said
15 subwarehouse. A table wine distributor may also hold a
16 license to sell beer at wholesale but shall not hold or have
17 any interest, direct or indirect, in any license to sell
18 beer, table wine, or liquor at retail.

19 (6) If the applicant is a foreign corporation, the
20 corporation must be authorized to do business in Montana."

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

22 "16-4-201. All-beverages license quota. (1) Except as
23 otherwise provided by law, a license to sell liquor, beer,
24 and table wine at retail (an all-beverages license) in
25 accordance with the provisions of this code and the rules of

1 the department may be issued to any person who is approved
2 by the department as a fit and proper person to sell such
3 beverages, except that the number of all-beverages licenses
4 that the department may issue for premises situated within
5 incorporated cities and incorporated towns and within a
6 distance of 5 miles from the corporate limits of such cities
7 and towns shall be determined on the basis of population
8 prescribed in 16-4-502 as follows:

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

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

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

23 (2) The number of the inhabitants in such cities and
24 towns, exclusive of the number of inhabitants residing
25 within a distance of 5 miles from the corporate limits

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

16 (3) Retail all-beverages licenses of issue on March 7,
 17 1947, and all-beverages licenses issued under 16-4-209,
 18 which are in excess of the foregoing limitations shall be
 19 renewable, but no new licenses may be issued in violation of
 20 such limitations.

21 (4) Such limitations do not prevent the issuance of a
 22 nontransferable and nonassignable (as to ownership only)
 23 retail license to an enlisted men's, noncommissioned
 24 officers', or officers' club located on a state or federal
 25 military reservation on May 13, 1985, or to any post of a

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

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

13 Section 25. Section 16-4-202, MCA, is amended to read:

14 "16-4-202. Resort licenses. (1) It is the intent and
 15 purpose of this section to encourage the growth of quality
 16 recreational resort facilities in undeveloped areas of the
 17 state and to provide for the orderly growth of existing
 18 recreational sites by the establishment of resort areas
 19 within which retail liquor all-beverages licenses may be
 20 issued by the department under the terms and as more
 21 particularly prescribed below. In addition to the licenses
 22 as otherwise set forth in this code, the department may
 23 issue resort retail liquor all-beverages licenses in a
 24 resort area.

25 (2) For the purposes of this section, a resort area is

1 defined as a recreational facility meeting the
2 qualifications determined by the department as hereinafter
3 provided.

4 (3) The department shall determine that the area for
5 which licenses are to be issued is a resort area, such
6 determination to be made under and pursuant to rules to be
7 first promulgated on or before December 31, 1975.

8 (4) In addition to the other requirements of this
9 code, a resort area, for the purposes of qualification for
10 the issuance of a resort retail ~~liquor~~ all-beverages
11 license, must have a current actual valuation of resort or
12 recreational facilities, including land and improvements
13 thereon, of not less than \$500,000, at least half of which
14 valuation must be for a structure or structures within the
15 resort area, and must be under the sole ownership or control
16 of one person or entity at the time of the filing of the
17 resort area plat referred to in subsection (5) of this
18 section. The word control shall mean lands held under
19 lease, option, or permit.

20 (5) The resort area must be determined by the resort
21 developer or landowner by a plat setting forth the resort
22 boundaries, designating the ownership of the lands within
23 the resort area, which plat must be verified by the resort
24 developer or landowner and filed with the department prior
25 to the filing of any applications by individuals for

1 licenses within the resort area. Such plat must show the
2 location and general design of the buildings and other
3 improvements to be built in said area in which resort retail
4 ~~liquor~~ all-beverages licenses are to or may be located. A
5 master plan for the development of the area may be filed by
6 the resort developer in satisfaction of this section.

7 (6) Upon such filing the department shall forthwith
8 schedule a public hearing to be held in Helena, Montana, to
9 determine whether the facility proposed by the resort
10 developer or landowner is a resort area within the meaning
11 of the rules of the department. At least 30 days prior to
12 the date of the hearing, the department shall publish notice
13 thereof, with a description of the location of the proposed
14 resort area, in a newspaper published in the county or
15 counties in which the resort is located, once a week for 4
16 consecutive weeks. Each resort developer or landowner
17 shall, at the time of filing his application, pay to the
18 department an amount sufficient to cover the costs of said
19 publication.

20 (7) Persons may present statements to the department
21 at the hearing in person or in writing in opposition or
22 support of the plat.

23 (8) Within 30 days of the hearing, the department
24 shall accept or reject the plat. If rejected the department
25 must state its reasons and set forth the conditions, if any,

1 under which the plat will be accepted, and the decision of
2 the department may be reviewed pursuant to the review
3 procedure set forth in 16-4-406.

4 (9) Once filed with the department, the boundaries of
5 a resort may not be changed without full hearing as above
6 provided and the prior approval of the department, which
7 approval shall be according to public convenience and
8 necessity.

9 (10) (a) When the department has accepted a plat and a
10 given resort area has been determined, applications may then
11 be filed with the department by persons for the issuance of
12 resort retail liquor all-beverages licenses within the
13 resort area.

14 (b) Each applicant must submit plans showing the
15 location, appearance, and floor plan of the premises for
16 which application for a license is made.

17 (c) If an applicant otherwise qualifies for a resort
18 license but the premises to be licensed are still in
19 construction or are otherwise incomplete at the time of such
20 application, the department shall issue a letter stating
21 that the license will be issued at such time as the
22 qualifications for a licensed premises have been met,
23 setting forth such time limitations and requirements as the
24 department may establish.

25 (11) In addition to the restrictions on sale or

1 transfer of a license as provided in 16-4-204 and 16-4-404,
2 no resort retail liquor all-beverages license may be sold or
3 transferred for operation at a location outside of the
4 boundaries of the resort area.

5 (12) A resort retail liquor all-beverages license shall
6 not be subject to the quota limitations set forth in
7 16-4-201, and if the requirements of this section have been
8 met, a resort retail liquor all-beverages license shall be
9 issued by the department on the basis that the department
10 has determined that such license is justified by public
11 convenience and necessity, in accordance with the procedure
12 required in 16-4-207."

13 Section 26. Section 16-4-208, MCA, is amended to read:

14 "16-4-208. Airport all-beverages license. (1) The
15 department of revenue shall issue one all-beverages license,
16 to be known as a public airport all-beverages license, for
17 use at each publicly owned airport served by scheduled
18 airlines and enplaning and deplaning a minimum total of
19 20,000 passengers annually when:

20 (a) application is made;

21 (b) upon finding that this license is justified by
22 public convenience and necessity, including the convenience
23 and necessity of the public traveling by scheduled airlines;
24 and

25 (c) following a hearing as provided in 16-4-207.

1 (2) Application shall be made by the agency owning and
 2 operating the airport. The agency owning and operating the
 3 airport may lease the airport all-beverages license to an
 4 individual or entity approved by the department.

5 (3) A public airport all-beverages license and all
 6 retail ~~liquor~~ alcoholic beverage sales thereunder shall be
 7 subject to all statutes and rules governing all-beverages
 8 licenses.

9 (4) The department of revenue shall issue a public
 10 airport all-beverages license to a qualified applicant
 11 regardless of the number of all-beverages licenses already
 12 issued within the all-beverages license quota area in which
 13 the airport is situated."

14 Section 27. Section 16-4-302, MCA, is amended to read:

15 "16-4-302. Passenger carrier licenses. Common carriers
 16 serving Montana may serve ~~beer--and--liquor~~ alcoholic
 17 beverages to passengers in aircraft over or railroad cars in
 18 the state of Montana upon the issuance of a retail ~~beer-and~~
 19 ~~liquor~~ all-beverages license by the department for that
 20 purpose. Such licenses shall be issued on an annual basis
 21 to common carriers making application therefor and shall be
 22 effective from July 1 of the current year to July 1 of the
 23 following year."

24 Section 28. Section 16-4-401, MCA, is amended to read:

25 "16-4-401. License as privilege -- criteria for

1 decision on application. (1) A license under this code is a
 2 privilege which the state may grant to an applicant and is
 3 not a right to which any applicant is entitled.

4 (2) Except as provided in subsection (6), in the case
 5 of a license that permits on-premises consumption, the
 6 department must find in every case in which it makes an
 7 order for the issuance of a new license or for the approval
 8 of the transfer of a license that:

9 (a) in the case of an individual applicant:

10 (i) the applicant will not possess an ownership
 11 interest in more than one establishment licensed under this
 12 chapter for all-beverages sales;

13 (ii) the applicant or any member of his immediate
 14 family is without financing from or any affiliation to a
 15 manufacturer, importer, bottler, or distributor of ~~beer,~~
 16 ~~wine,~~ or-liquor alcoholic beverages;

17 (iii) the applicant is a resident of the state and is
 18 qualified to vote in a state election;

19 (iv) the applicant's past record and present status as
 20 a purveyor of alcoholic beverages and as a businessman and
 21 citizen demonstrate that he is likely to operate his
 22 establishment in compliance with all applicable laws of the
 23 state and local governments; and

24 (v) the applicant is not under the age of 19 years;
 25 and

1 (b) in the case of a corporate applicant:
 2 (i) the owners of at least 51% of the outstanding
 3 stock meet the requirements of subsection (2)(a)(iii);
 4 (ii) each owner of 10% or more of the outstanding stock
 5 meets the requirements for an individual applicant listed in
 6 subsection (2)(a) of this section;
 7 (iii) the corporation is authorized to do business in
 8 Montana; and
 9 (iv) in the case of a corporation not listed on a
 10 national stock exchange, each owner of stock meets the
 11 requirements of subsection (2)(a)(i); and
 12 (c) in the case of any other business entity as
 13 applicant:
 14 (i) if the applicant consists of more than one
 15 individual, all must meet the requirements of subsection
 16 (2)(a); and
 17 (ii) if the applicant consists of more than one
 18 corporation, all must meet the requirements of subsection
 19 (2)(b).
 20 (3) In the case of a license that permits only
 21 off-premises consumption, the department must find in every
 22 case in which it makes an order for the issuance of a new
 23 license or for the approval of the transfer of a license
 24 that:
 25 (a) in the case of an individual applicant:

1 (i) the applicant will not possess an ownership
 2 interest in more than one establishment licensed under this
 3 chapter for all-beverages sales;
 4 (ii) the applicant or any member of his immediate
 5 family is without financing from or any affiliation to a
 6 manufacturer, importer, bottler, or distributor of ~~beer~~
 7 ~~wine~~-~~or-liquor~~ alcoholic beverages;
 8 (iii) the applicant has not been convicted of a felony
 9 or, if the applicant has been convicted of a felony, his
 10 rights have been restored;
 11 (iv) the applicant's past record and present status as
 12 a purveyor of alcoholic beverages and as a businessman and
 13 citizen demonstrate that he is likely to operate his
 14 establishment in compliance with all applicable laws of the
 15 state and local governments; and
 16 (v) the applicant is not under the age of 19 years;
 17 and
 18 (b) in the case of a corporate applicant:
 19 (i) the owners of at least 51% of the outstanding
 20 stock meet the requirements of subsection (3)(a)(iii);
 21 (ii) each owner of 10% or more of the outstanding stock
 22 meets the requirements for an individual listed in
 23 subsection (3)(a) of this section; and
 24 (iii) the corporation is authorized to do business in
 25 Montana; and

1 (c) in the case of any other business entity as
2 applicant:

3 (i) if the applicant consists of more than one
4 individual, all must meet the requirements of subsection
5 (3)(a); and

6 (ii) if the applicant consists of more than one
7 corporation, all must meet the requirements of subsection
8 (3)(b).

9 (4) In the case of a license that permits the
10 manufacture, importing, or wholesaling of an alcoholic
11 beverage, the department must find in every case in which it
12 makes an order for the issuance of a new license or for the
13 approval of the transfer of a license that:

14 (a) in the case of an individual applicant:

15 (i) the applicant has no ownership interest in any
16 establishment licensed under this chapter for retail
17 alcoholic beverages sales;

18 (ii) the applicant has not been convicted of a felony
19 or, if the applicant has been convicted of a felony, his
20 rights have been restored;

21 (iii) the applicant's past record and present status as
22 a purveyor of alcoholic beverages and as a businessman and
23 citizen demonstrate that he is likely to operate his
24 establishment in compliance with all applicable laws of the
25 state and local governments;

1 (iv) the applicant is not under the age of 19 years;
2 and

3 (v) an applicant for a wholesale license is neither a
4 manufacturer of an alcoholic beverage nor is owned or
5 controlled by a manufacturer of an alcoholic beverage; and

6 (b) in the case of a corporate applicant:

7 (i) the owners of at least 51% of the outstanding
8 stock meet the requirements of subsection (4)(a)(ii);

9 (ii) each owner of 10% or more of the outstanding stock
10 meets the requirements for an individual listed in
11 subsection (4)(a) of this section;

12 (iii) an applicant for a wholesale license is neither a
13 manufacturer of an alcoholic beverage nor is owned or
14 controlled by a manufacturer of an alcoholic beverage; and

15 (iv) the corporation is authorized to do business in
16 Montana; and

17 (c) in the case of any other business entity as
18 applicant:

19 (i) if the applicant consists of more than one
20 individual, all must meet the requirements of subsection
21 (4)(a); and

22 (ii) if the applicant consists of more than one
23 corporation, all must meet the requirements of subsection
24 (4)(b).

25 (5) In the case of a corporate applicant, the

1 requirements of subsections (2)(b), (3)(b), and (4)(b) apply
2 separately to each class of stock.

3 (6) The provisions of subsection (2) do not apply to
4 an applicant for or holder of a license pursuant to
5 16-4-302."

6 Section 29. Section 16-4-404, MCA, is amended to read:

7 "16-4-404. Protest period -- contents of license --
8 posting -- privilege -- transfer. (1) No license may be
9 issued until on or after the date set in the notice for
10 hearing protests.

11 (2) Every license issued under this code shall set
12 forth the name of the person to whom issued, the location,
13 by street and number or other appropriate specific
14 description of location if no street address exists, of the
15 premises where the business is to be carried on under said
16 license, and such other information as the department shall
17 deem necessary. If the licensee is a partnership or if more
18 than one person has any interest in the business operated
19 under the license, the names of all persons in the
20 partnership or interested in the business must appear on the
21 license. Every license must be posted in a conspicuous
22 place on the premises wherein the business authorized under
23 the license is conducted, and such license shall be
24 exhibited upon request to any authorized representative of
25 the department or to any peace officer of the state of

1 Montana.

2 (3) Any license issued under the provisions of this
3 code shall be considered a privilege personal to the
4 licensee named in the license and shall be good until the
5 expiration of the license unless sooner revoked or
6 suspended.

7 (4) A license may be transferred to the executor or
8 administrator of the estate of any deceased licensee when
9 such estate consists in whole or in part of the business of
10 selling liquor alcoholic beverages under a license, and in
11 such event the license may descend or be disposed of with
12 the business to which it is applicable under appropriate
13 probate proceedings.

14 (5) In the event of a major loss or damage to licensed
15 premises by unforeseen natural causes or in case of
16 expiration of lease of the licensed premises or in the event
17 of eviction or increase of rent by the landlord (in case of
18 rented licensed premises) or in case of proposed removal of
19 license to premises as substantially suited for the retail
20 liquor alcoholic beverages business as the premises vacated,
21 the licensee may apply to the department for a transfer of
22 the license to different premises. The department may in its
23 discretion permit a transfer in such cases if it appears to
24 the department that such a transfer is required to do
25 justice to the licensee applying for the transfer. The

1 department shall in no event nor for any cause permit a
 2 transfer to different premises where the sanitary, health,
 3 and service facilities are less satisfactory than such
 4 facilities which exist or had existed at the premises from
 5 which the transfer is proposed to be made.

6 (6) Upon a bona fide sale of the business operated
 7 under any license, the license may be transferred to a
 8 qualified purchaser. No transfer of any license as to
 9 person or location shall be effective unless and until
 10 approved by the department, and any licensee or transferee
 11 or proposed transferee who operates or attempts to operate
 12 under any supposedly transferred license prior to the
 13 approval of such transfer by the department, endorsed upon
 14 the license in writing, shall be considered as operating
 15 without a license and the license affected may be revoked or
 16 suspended by the department. The department may, within its
 17 discretion, permit a qualified purchaser to operate the
 18 business to be transferred pending final approval, providing
 19 the application for transfer has been filed with the
 20 department.

21 (7) Except as provided in subsections (2) through (6)
 22 and 16-4-204, no license shall be transferred or sold nor
 23 shall it be used for any place of business not described in
 24 the license; provided, however, that such license may be
 25 subject to mortgage and other valid liens, in which event

1 the name of the mortgagee, upon application to and approval
 2 of the department, must be endorsed on the license."

3 Section 30. Section 16-4-405, MCA, is amended to read:

4 "16-4-405. Denial of license. (1) The department may
 5 deny the issuance of a retail ~~beer--or--all-beverages~~
 6 alcoholic beverages license if it determines that the
 7 premises proposed for licensing are off regular police beats
 8 and cannot be properly policed by local authorities.

9 (2) No retail license may be issued by the department
 10 for any premises situated within any zone of such city or
 11 town where the sale of ~~beer-or-liquor~~ alcoholic beverages is
 12 prohibited by ordinance, a certified copy of which has been
 13 filed with the department.

14 (3) Nor may a license under this code be issued if the
 15 department finds from the evidence at the hearing that the
 16 welfare of the people residing in the vicinity of the place
 17 for which such license is desired will be adversely and
 18 seriously affected or that the purposes of this code will
 19 not be carried out by the issuance of such license."

20 Section 31. Section 16-4-411, MCA, is amended to read:

21 "16-4-411. Appeals concerning ~~liquor---and---beer~~
 22 alcoholic beverages laws. (1) Any interested party shall
 23 have the right to appeal any decision of the department of
 24 revenue concerning the issuance, transfer, suspension, or
 25 revocation of ~~beer-or-liquor~~ alcoholic beverages licenses to

1 the district court in the county in which the issuance,
2 transfer, suspension, or revocation occurred or, at the
3 appellant's option, in the district court of the first
4 judicial district.

5 (2) The appeal must be in conformity with the
6 provisions of Title 2, chapter 4, part 7."

7 Section 32. Section 16-4-501, MCA, is amended to read:

8 "16-4-501. License and permit fees. (1) Each beer
9 licensee licensed to sell either beer or table wine only, or
10 both beer and table wine, under the provisions of this code,
11 shall pay an annual license fee as follows:

12 (a) each brewer and each beer importer, wherever
13 located, whose product is sold or offered for sale within
14 the state, \$500; for each storage depot, \$400;

15 (b) each beer wholesaler, \$400; each table wine
16 distributor, \$400; each subwarehouse, \$400;

17 (c) each beer retailer, \$200; ~~with--a--wine--license~~
18 ~~amendment--an-additional--\$200;~~

19 (d) for a license to sell beer at retail for
20 off-premises consumption only, the same as a retail beer
21 license; for a license to sell table wine at retail for
22 off-premises consumption only, either alone or in
23 conjunction with beer, \$200;

24 (e) any unit of a nationally chartered veterans'
25 organization, \$50.

1 (2) The permit fee under 16-4-301(1) is computed at
2 the rate of \$15 a day for each day beer and table wine are
3 sold at those events lasting 2 or more days but in no case
4 be less than \$30.

5 (3) The permit fee under 16-4-301(2) is \$10 for the
6 sale of beer and table wine only or \$20 for the sale of all
7 alcoholic beverages.

8 (4) Passenger carrier licenses shall be issued upon
9 payment by the applicant of an annual license fee in the sum
10 of \$300.

11 (5) The annual license fee for a license to sell wine
12 on the premises, when issued as an amendment to a beer-only
13 license pursuant to 16-4-105, is \$200.

14 (6) The annual fee for resort retail liquor
15 all-beverages licenses within a given resort area shall be
16 \$2,000 for each license.

17 (7) Each licensee licensed under the quotas of
18 16-4-201 shall pay an annual license fee as follows:

19 (a) except as hereinafter provided, for each license
20 outside of incorporated cities and incorporated towns or in
21 incorporated cities and incorporated towns with a population
22 of less than 2,000, \$250 for a unit of a nationally
23 chartered veterans' organization and \$400 for all other
24 licensees;

25 (b) except as hereinafter provided, for each license

1 in incorporated cities with a population of more than 2,000
 2 and less than 5,000 or within a distance of 5 miles thereof,
 3 measured in a straight line from the nearest entrance of the
 4 premises to be licensed to the nearest boundary of such
 5 city, \$350 for a unit of a nationally chartered veterans'
 6 organization and \$500 for all other licensees;

7 (c) except as hereinafter provided, for each license
 8 in incorporated cities with a population of more than 5,000
 9 and less than 10,000 or within a distance of 5 miles
 10 thereof, measured in a straight line from the nearest
 11 entrance of the premises to be licensed to the nearest
 12 boundary of such city, \$500 for a unit of a nationally
 13 chartered veterans' organization and \$650 for all other
 14 licensees;

15 (d) for each license in incorporated cities with a
 16 population of 10,000 or more or within a distance of 5 miles
 17 thereof, measured in a straight line from the nearest
 18 entrance of the premises to be licensed to the nearest
 19 boundary of such city, \$650 for a unit of a nationally
 20 chartered veterans' organization and \$800 for all other
 21 licensees;

22 (e) the distance of 5 miles from the corporate limits
 23 of any incorporated cities and incorporated towns is
 24 measured in a straight line from the nearest entrance of the
 25 premises to be licensed to the nearest boundary of such city

1 or town; and where the premises of the applicant to be
 2 licensed are situated within 5 miles of the corporate
 3 boundaries of two or more incorporated cities or
 4 incorporated towns of different populations, the license fee
 5 chargeable by the larger incorporated city or incorporated
 6 town applies and shall be paid by the applicant. When the
 7 premises of the applicant to be licensed are situated within
 8 an incorporated town or incorporated city and any portion of
 9 the incorporated town or incorporated city is without a
 10 5-mile limit, the license fee chargeable by the smaller
 11 incorporated town or incorporated city applies and shall be
 12 paid by the applicant.

13 (f) an applicant for the issuance of an original
 14 license to be located in areas described in subsection (d)
 15 of this subsection shall provide an irrevocable letter of
 16 credit from a financial institution that guarantees that
 17 applicant's ability to pay a \$20,000 license fee. A
 18 successful applicant shall pay a one-time original license
 19 fee of \$20,000 for any such license issued. The one-time
 20 license fee of \$20,000 shall not apply to any transfer or
 21 renewal of a license duly issued prior to July 1, 1974. All
 22 licenses, however, are subject to the annual renewal fee.

23 (8) The fee for one all-beverage license to a public
 24 airport shall be \$800. This license is nontransferable.

25 (9) The license fees herein provided for are exclusive

1 of and in addition to other license fees chargeable in
2 Montana for the sale of alcoholic beverages.

3 (10) In addition to other license fees, the department
4 of revenue may require a licensee to pay a late fee of
5 33 1/3% of any license fee delinquent on July 1 of the
6 renewal year, 66 2/3% of any license fee delinquent on
7 August 1 of the renewal year, and 100% of any license fee
8 delinquent on September 1 of the renewal year."

9 Section 33. Section 16-6-104, MCA, is amended to read:

10 "16-6-104. Unlawful alcoholic beverage -- seizure --
11 forfeiture. (1) Any investigator or peace officer who finds
12 an alcoholic beverage which he has reasonable cause to
13 believe is had or kept by any person in violation of the
14 provisions of this code may forthwith seize and remove the
15 same and the packages in which the alcoholic beverage is
16 kept, and upon conviction of the person, the alcoholic
17 beverage and all packages containing the same shall, in
18 addition to any other penalty prescribed by this code, ipso
19 facto be forfeited to the state of Montana.

20 (2) Any beer which has been shipped into Montana and
21 has not been shipped to and distributed from a warehouse of
22 a licensed wholesaler shall be seized by any peace officer
23 or representative of the department and may be confiscated
24 in the manner as provided for the confiscation of
25 ~~intoxicating-liquor~~ alcoholic beverages."

1 Section 34. Section 16-6-301, MCA, is amended to read:

2 "16-6-301. Transfer, sale, and possession of alcoholic
3 beverages -- when unlawful. (1) Except as provided by this
4 code, no person shall, within the state, by himself, his
5 clerk, servant, or agent, expose or keep for sale or,
6 directly or indirectly or upon any pretense or upon any
7 device, sell or offer to sell or, in consideration of the
8 purchase or transfer of any property or for any other
9 consideration or at the time of the transfer of any
10 property, give to any other person any ~~liquor~~ alcoholic
11 beverage.

12 (2) No person shall have or keep any ~~liquor-within-the~~
13 state alcoholic beverage which has not been purchased ~~from~~
14 within the state of Montana. Nothing in this code shall
15 prohibit any person entering this state from any other state
16 or from any foreign country from having in his possession
17 not to exceed 3 wine gallons of alcoholic ~~liquor--or--beer~~
18 beverage which ~~liquor--or--beer~~ beverage shall have been
19 purchased in another state or foreign country, but no person
20 claiming to have so entered the state shall at any time have
21 in his possession more than 3 wine gallons of ~~intoxicating~~
22 liquor alcoholic beverage which shall not have been
23 purchased ~~from-a-state-liquor--store~~ within the state of
24 Montana. This subsection shall not apply to the department
25 or to the keeping or having of ~~liquor~~ alcoholic beverages by

1 brewers, distillers, and other persons duly licensed by the
 2 United States for the manufacture of such ~~liquor~~ alcoholic
 3 beverages or to the keeping or having of any proprietary or
 4 patent medicines or of any extracts, essences, tinctures, or
 5 preparations where such having and keeping is authorized by
 6 this code.

7 (3) Nothing contained in this section shall apply to
 8 the possession by a sheriff or his bailiff of ~~liquor~~
 9 alcoholic beverages seized under execution or other judicial
 10 or extrajudicial process or to sales under executions or
 11 other judicial or extrajudicial process to the department
 12 ~~or, in the case of beer, to a brewer, beer licensee, club~~
 13 ~~licensee, or canteen licensee~~ a licensee.

14 (4) Except as provided in this code, no person shall,
 15 within the state, by himself, his clerk, servant, or agent:

16 (a) attempt to purchase any alcoholic beverage;

17 (b) directly or indirectly or upon any pretense or
 18 device, purchase any alcoholic beverage; or

19 (c) in consideration of the sale or transfer of any
 20 property or for any other consideration or at the time of
 21 the transfer of any property, take or accept from any other
 22 person any alcoholic beverage."

23 Section 35. Section 16-6-305, MCA, is amended to read:

24 "16-6-305. Age limit for sale of alcoholic beverages.

25 (1) Except in the case of an alcoholic beverage given to a

1 person under 19 years of age by his parent or guardian for
 2 beverage or medicinal purposes or administered to him by his
 3 physician or dentist for medicinal purposes or sold to him
 4 by a vendor or druggist upon the prescription of a
 5 physician, no person shall sell, give, or otherwise supply
 6 an alcoholic beverage to any person under 19 years of age or
 7 permit any person under that age to consume an alcoholic
 8 beverage.

9 (2) Any person shall be guilty of a misdemeanor who:

10 (a) invites a person under the age of 19 years into a
 11 public place where an alcoholic beverage is sold and treats,
 12 gives, or purchases an alcoholic beverage for such person;

13 (b) permits such person in a public place where an
 14 alcoholic beverage is sold to treat, give, or purchase
 15 ~~liquor~~ alcoholic beverages for him; or

16 (c) holds out such person to be 19 years of age or
 17 older to the owner of the establishment or his or her
 18 employee or employees.

19 (3) It is unlawful for any person to fraudulently
 20 misrepresent his or her age to any dispenser of alcoholic
 21 beverages or to falsely procure any identification card or
 22 to alter any of the statements contained in any
 23 identification card."

24 Section 36. Section 16-6-306, MCA, is amended to read:

25 "16-6-306. Bottle clubs prohibited. The operation of

1 ~~beer-or-liquor-or~~ alcoholic beverage bottle clubs is hereby
 2 prohibited by any person, persons, partnership, firm,
 3 corporation, or association. A bottle club is defined as any
 4 person, persons, partnership, firm, corporation, or
 5 association maintaining premises not licensed for the sale
 6 of ~~beer-or-liquor~~ alcoholic beverages, for a fee or other
 7 consideration, including the sale of food, mixes, ice, or
 8 any other fluids for alcoholic ~~liquors~~ beverages, or
 9 otherwise furnishing premises for such purposes and from
 10 which they would derive revenue."

11 Section 37. Section 16-6-309, MCA, is amended to read:

12 "16-6-309. ~~Liquor~~ Alcoholic beverages administered to
 13 institution inmates. No ~~liquor~~ alcoholic beverage shall be
 14 administered by any person under 16-1-204 except to bona
 15 fide patients or inmates of the institution of which he is
 16 in charge, and every person in charge of an institution who
 17 administers ~~liquor~~ alcoholic beverages in evasion or
 18 violation of this code shall be guilty of an offense against
 19 this code."

20 Section 38. Section 16-6-312, MCA, is amended to read:

21 "16-6-312. Premises where ~~liquor~~ alcoholic beverages
 22 illegally sold public nuisance. Any room, house, building,
 23 boat, vehicle, structure, or place where alcoholic beverages
 24 are knowingly manufactured, sold, or bartered in violation
 25 of this code or 45-8-111 and all property knowingly kept and

1 used in maintaining the same is hereby declared to be a
 2 public nuisance, and any person who maintains such a
 3 nuisance shall be guilty of a misdemeanor and upon
 4 conviction thereof shall be fined not less than \$100 or more
 5 than \$500 and be imprisoned not less than 30 days or more
 6 than 6 months."

7 Section 39. Section 16-6-313, MCA, is amended to read:

8 "16-6-313. Injunction actions. An action to enjoin any
 9 nuisance defined in this code may be brought in the name of
 10 the state of Montana by the attorney general of the state or
 11 by any county attorney. Such action shall be brought and
 12 tried as an action in equity and may be brought in any court
 13 having jurisdiction to hear and determine equity cases. If
 14 it is made to appear, by affidavits or otherwise, to the
 15 satisfaction of the court or judge in vacation that such
 16 nuisance exists, a temporary writ of injunction shall
 17 forthwith issue restraining the defendant from conducting or
 18 permitting the continuance of such nuisance until the
 19 conclusion of the trial. If a temporary injunction is
 20 prayed for, the court may issue an order restraining the
 21 defendant and all other persons from removing or in any way
 22 interfering with the fixtures or other things used in
 23 connection with the violation of this code constituting such
 24 nuisance. No bond shall be required in instituting such
 25 proceedings. It shall not be necessary for the court to find

1 the property involved was being unlawfully used at the time
2 of the hearing, but on finding that the material allegations
3 of the petition are true, the court shall order that no
4 ~~liquor--or--beer~~ alcoholic beverages shall be manufactured,
5 sold, or bartered in such room, house, building, boat,
6 vehicle, structure, or place or any part thereof. Upon
7 judgment of the court ordering such nuisance to be abated,
8 the court may order that the room, house, building,
9 structure, boat, vehicle, or place shall not be occupied or
10 used for 1 year thereafter. The court may, in its
11 discretion, permit it to be occupied or used if the owner,
12 lessee, tenant, or occupant thereof shall give bond with
13 sufficient surety, to be approved by the court making the
14 order, in the penal and liquidated sum of not less than \$500
15 or more than \$1,000, payable to the state of Montana and
16 conditioned that ~~liquor-or-beer~~ alcoholic beverages will not
17 thereafter be manufactured, sold, or bartered therein or
18 thereon and that he will pay all fines, costs, and damages
19 that may be assessed for any violations of this code upon
20 said property."

21 NEW SECTION. Section 40. 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.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 133

INTRODUCED BY M. WILLIAMS, BLAYLOCK, HARRINGTON,

MAZUREK, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CONSISTENT CERTAIN TERMS IN THE MONTANA ALCOHOLIC BEVERAGE CODE; AND AMENDING SECTIONS 16-1-101, 16-1-104 THROUGH 16-1-106, 16-1-201, 16-1-204, 16-1-303, 16-1-405, 16-2-101, 16-2-103, 16-2-104, 16-2-106 THROUGH 16-2-108, 16-2-203, 16-2-302, 16-3-101, 16-3-105, 16-3-106, 16-3-310, 16-3-401 16-4-106, 16-4-108, 16-4-201, 16-4-202, 16-4-208, 16-4-302, 16-4-401, 16-4-404, 16-4-405, 16-4-411, 16-4-501, 16-6-104, 16-6-301, 16-6-305, 16-6-306, 16-6-309, 16-6-312, AND 16-6-313, MCA."

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

Section 1. Section 16-1-101, MCA, is amended to read:

"16-1-101. Citation -- declaration of policy -- subject matters of regulation. (1) Chapters 1 through 6 of this title may be cited as the "Montana Alcoholic Beverage Code".

(2) It is hereby declared to be the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, and distribution of liquor alcoholic beverages within the state of Montana, as that

term is defined in this code, subject to the authority of the state of Montana through the Montana department of revenue.

(3) This code is an exercise of the police power of the state, in and for the protection of the welfare, health, peace, morals, and safety of the people of the state, and its provisions shall be construed for the accomplishment of such purposes."

Section 2. Section 16-1-104, MCA, is amended to read:

"16-1-104. Intent and construction of code. The purpose and intent of this code are to prohibit transactions in liquor alcoholic beverages which take place wholly within the state of Montana except under state control as specifically provided by this code, and every section and provision of this code shall be construed accordingly. The provisions of this code dealing with the importation, sale, and disposition of liquor alcoholic beverages within the state, through the instrumentality of a department and otherwise, provide the means by which such state control shall be made effective, and nothing in this code shall be construed as forbidding, affecting, or regulating any transaction which is not subject to the legislative authority of the state."

Section 3. Section 16-1-105, MCA, is amended to read:

"16-1-105. Divisions of code. This code is divided

1 into six chapters. Chapter 1 relates to the authority of
 2 the department of revenue to administer this code and the
 3 powers and functions of the department. Chapter 2 relates to
 4 the establishment of state stores and the keeping and
 5 selling of liquors. Chapter 3 relates to the control of
 6 liquor, wine, and beer. Chapter 4 relates to license
 7 administration. Chapter 5 relates (now repealed) related to
 8 identification cards. Chapter 6 relates to enforcement."

9 Section 4. Section 16-1-106, MCA, is amended to read:
 10 "16-1-106. Definitions. As used in this code, the
 11 following definitions apply:

12 (1) "Agency agreement" means an agreement between the
 13 department and a person appointed to sell liquor and table
 14 wine as a commission merchant rather than as an employee.

15 (2) "Alcohol" means ethyl alcohol, also called
 16 ethanol, or the hydrated oxide of ethyl.

17 (3) "Alcoholic beverage" means a compound produced and
 18 sold for human consumption as a drink that contains more
 19 than .5% of alcohol by volume.

20 (4) "Beer" means a malt beverage containing not more
 21 than 7% of alcohol by weight.

22 (5) "Beer importer" means a person other than a brewer
 23 who imports malt beverages.

24 (6) "Brewer" means a person who produces malt
 25 beverages.

1 (7) "Department" means the department of revenue.

2 (8) "Immediate family" means a spouse, dependent
 3 children, or dependent parents.

4 (9) "Import" means to transfer beer or table wine from
 5 outside the state of Montana into the state of Montana.

6 (10) "Industrial use" means a use described as
 7 industrial use by the federal Alcohol Administration Act and
 8 the federal rules and regulations of 27 CFR.

9 (11) "Liquor" means an alcoholic beverage except beer
 10 and table wine.

11 (12) "Malt beverage" means an alcoholic beverage made
 12 by the fermentation of an infusion or decoction, or a
 13 combination of both, in potable brewing water, of malted
 14 barley with or without hops or their parts or their products
 15 and with or without other malted cereals and with or without
 16 the addition of unmalted or prepared cereals, other
 17 carbohydrates, or products prepared therefrom and with or
 18 without other wholesome products suitable for human food
 19 consumption.

20 (13) "Package" means a container or receptacle used for
 21 holding an alcoholic beverage.

22 (14) "Posted price" means the retail price of liquor
 23 and table wine as fixed and determined by the department and
 24 in addition thereto an excise and license tax as provided in
 25 this code.

1 (15) "Proof gallon" means a U.S. gallon of liquor at 60
 2 degrees on the Fahrenheit scale that contains 50% of alcohol
 3 by volume.

4 (16) "Public place" means a place, building, or
 5 conveyance to which the public has or may be permitted to
 6 have access and any place of public resort.

7 (17) "Rules" means rules published by the department
 8 pursuant to this code.

9 (18) "State liquor facility" means a facility owned or
 10 under control of the department for the purpose of
 11 receiving, storing, transporting, or selling alcoholic
 12 beverages.

13 (19) "State liquor store" means a retail store operated
 14 by the department in accordance with this code for the
 15 purpose of selling liquor and table wine.

16 (20) "Storage depot" means a building or structure
 17 owned or operated by a brewer at any point in the state of
 18 Montana off and away from the premises of a brewery, and
 19 which structure is equipped with refrigeration or cooling
 20 apparatus for the storage of beer and from which a brewer
 21 may sell or distribute beer as permitted by this code.

22 (21) "Subwarehouse" means a building or structure owned
 23 or operated by a licensed beer wholesaler or table wine
 24 distributor, located at a site in Montana other than the
 25 site of such beer wholesaler's or table wine distributor's

1 warehouse or principal place of business, and used for the
 2 receiving, storage, and distribution of beer or table wine
 3 as permitted by this code.

4 (22) "Table wine" means wine as defined below which
 5 contains not more than 16% alcohol by volume.

6 (23) "Warehouse" means a building or structure located
 7 in Montana owned or operated by a licensed beer wholesaler
 8 or table wine distributor for the receiving, storage, and
 9 distribution of beer or table wine as permitted by this
 10 code.

11 (24) "Wine" means an alcoholic beverage made from or
 12 containing the normal alcoholic fermentation of the juice of
 13 sound, ripe fruit or other agricultural products without
 14 addition or abstraction, except as may occur in the usual
 15 cellar treatment of clarifying and aging, and that contains
 16 more than 0.5% but not more than 24% of alcohol by volume.
 17 Wine may be ameliorated to correct natural deficiencies,
 18 sweetened, and fortified in accordance with applicable
 19 federal regulations and the customs and practices of the
 20 industry. Other alcoholic beverages not defined as above
 21 but made in the manner of wine and labeled and sold as wine
 22 in accordance with federal regulations are also wine."

23 Section 5. Section 16-1-201, MCA, is amended to read:
 24 "16-1-201. Acts not covered by code. (1) Nothing in
 25 this code shall prevent any brewer, distiller, or other

1 person, duly licensed under the provisions of any statute of
 2 the United States of America for the manufacture of ~~liquor~~
 3 alcoholic beverages, from having or keeping ~~liquor~~ alcoholic
 4 beverages in a place and in the manner authorized by or
 5 under any such statute.

6 (2) It is hereby declared to be the policy of the
 7 state of Montana that the manufacture of ~~liquor~~ alcoholic
 8 beverages, including the distillation, rectification,
 9 bottling, and processing as these terms are defined under
 10 the provisions of the laws of the United States, shall be
 11 authorized and permitted by any brewer, distiller,
 12 rectifier, or other person duly licensed under any provision
 13 of any statute of the United States of America in a place
 14 and in the manner authorized by or under any statute of the
 15 United States, provided the department may make such rules
 16 as the department deems necessary with respect thereto not
 17 inconsistent with this code or with the statutes of the
 18 United States of America or regulations issued under the
 19 provisions of the federal Alcohol Administration Act, Title
 20 27, United States Code, sections 201 through 212, inclusive,
 21 or regulations issued under the provisions of the Internal
 22 Revenue Code, Title 26, United States Code, sections 5001
 23 through 5693, inclusive.

24 (3) Nothing in this code shall prevent:

25 (a) the sale of liquor or table wine by any person to

1 the department;

2 (b) the purchase, importation, and sale of liquor and
 3 table wine by the department for the purposes of and in
 4 accordance with this code."

5 Section 6. Section 16-1-204, MCA, is amended to read:

6 "16-1-204. Licensed hospital or health care facility.

7 Any person in charge of an institution regularly conducted
 8 as a licensed hospital or health care facility may
 9 administer ~~liquor~~ alcoholic beverages purchased by him to
 10 any patient or inmate of the institution and may charge for
 11 the ~~liquor~~ alcoholic beverages so administered."

12 Section 7. Section 16-1-303, MCA, is amended to read:

13 "16-1-303. Department rules. (1) The department may
 14 make such rules not inconsistent with this code as to the
 15 department seem necessary for carrying out the provisions of
 16 this code and for the efficient administration thereof.

17 (2) Without thereby limiting the generality of the
 18 provisions contained in subsection (1) hereof, it is
 19 declared that the power of the department to make rules in
 20 the manner set out in that subsection shall extend to and
 21 include the following:

22 (a) regulating the equipment and management of state
 23 stores and warehouses in which liquor or table wine is kept
 24 or sold and prescribing the books and records to be kept
 25 therein;

1 (b) prescribing the duties of the employees of the
2 liquor division and regulating their conduct while in the
3 discharge of their duties;

4 (c) governing the purchase of liquo. and table wine
5 and the furnishing of liquor and table wine to state stores
6 established under this code;

7 (d) determining the classes, varieties, and brands of
8 liquor and table wine to be kept for sale at any state
9 store;

10 (e) prescribing, subject to this code, the hours
11 during which state liquor stores shall be kept open for the
12 sale of alcoholic beverages;

13 (f) providing for the issuing and distributing of
14 price lists showing the price to be paid by purchasers for
15 each class, variety, or brand of liquor and table wine kept
16 for sale under this code;

17 (g) prescribing forms to be used for the purpose of
18 this code or of the rules made thereunder and the terms and
19 conditions in permits and licenses issued and granted under
20 this code;

21 (h) prescribing the form of records of purchase of
22 liquor and table wine and the reports to be made thereon to
23 the division and providing for inspection of the records so
24 kept;

25 (i) prescribing the manner of giving and serving

1 notices required by this code or the rules thereunder;

2 (j) prescribing the fees payable in respect of permits
3 and licenses issued under this code for which no fees are
4 prescribed in this code and prescribing the fees for
5 anything done or permitted to be done under the rules made
6 thereunder;

7 (k) prescribing, subject to the provisions of this
8 code, the conditions and qualifications necessary for the
9 obtaining of ~~a--liquor--or--beer--license~~ alcoholic beverage
10 licenses and the books and records to be kept and the
11 returns to be made by the licensees and providing for the
12 inspection of such licensed premises;

13 (l) specifying and describing the place and the manner
14 in which ~~liquor-or-beer~~ alcoholic beverages may be lawfully
15 kept or stored;

16 (m) specifying and regulating the time and periods
17 when and the manner, methods, and means by which vendors and
18 brewers shall deliver ~~liquor~~ alcoholic beverages under this
19 code and the time and periods when and the manner, methods,
20 and means by which ~~liquor~~ alcoholic beverages, under this
21 code, may be lawfully conveyed or carried;

22 (n) governing the conduct, management, and equipment
23 of any premises licensed to sell ~~liquor--or--beer~~ alcoholic
24 beverages under this code;

25 (o) providing for the imposition and collection of

1 taxes and making rules respecting returns, accounting, and
 2 payment of the taxes to the department.

3 (3) Whenever it is provided in this code that any act,
 4 matter, or thing may be done if permitted or authorized by
 5 the rules or may be done in accordance with the rules or as
 6 provided by the rules, the department, subject to the
 7 restrictions set out in subsection (1) hereof, shall have
 8 the power to make rules respecting such act, matter, or
 9 thing."

10 Section 8. Section 16-1-405, MCA, is amended to read:

11 "16-1-405. Use of license tax proceeds. The license
 12 tax moneys when so apportioned shall be deposited to the
 13 credit of the general funds of said incorporated cities,
 14 towns, and counties and shall be expended by said
 15 incorporated cities, towns, and counties for law enforcement
 16 and the regulation and control of the sale of liquor
 17 alcoholic beverages and the use thereof."

18 Section 9. Section 16-2-101, MCA, is amended to read:

19 "16-2-101. Establishment and closure of state liquor
 20 stores -- kinds and prices of liquor and table wine. (1) (a)
 21 The department shall establish and maintain one or more
 22 stores, to be known as "state liquor stores", as the
 23 department finds feasible for the sale of liquor and table
 24 wine in accordance with the provision of this code and the
 25 rules made thereunder.

1 (b) The department shall enter into an agency
 2 agreement or employ the necessary help to operate said
 3 stores and shall designate the duties to be performed by the
 4 agent or employees.

5 (2) The department may from time to time fix the
 6 prices at which the various classes, varieties, and brands
 7 of liquor and table wine may be sold, and prices shall be
 8 the same at all state stores."

9 Section 10. Section 16-2-103, MCA, is amended to read:

10 "16-2-103. Duplicate invoices of sales required. (1)
 11 The state liquor store shall, upon each sale of liquor or
 12 table wine to any licensee, issue a duplicate invoice of the
 13 liquor or table wine purchased, as provided by the
 14 department, a copy of which shall be delivered to the
 15 licensee and one copy retained at such store.

16 (2) The invoice shall show the date of purchase, name
 17 of employee making the sale, the quantity of each kind of
 18 liquor or table wine purchased, the price paid therefor, the
 19 name of the licensee, and the number of the license, with
 20 such other information as may be required by the department.

21 (3) The licensee shall keep and retain his duplicate
 22 invoice of all purchases made by him from the state liquor
 23 store, which shall at all times be subject to inspection by
 24 the duly authorized officers, agents, and employees of the
 25 department."

1 Section 11. Section 16-2-104, MCA, is amended to read:

2 "16-2-104. Hours. (1) State liquor stores shall be and
3 remain open during such period of the day as the department
4 shall deem advisable. The stores shall be closed for the
5 transaction of business on legal holidays and between the
6 close of normal business Saturday p.m. up to the opening of
7 normal business Tuesday a.m. as set by department rule.

8 (2) No sale or delivery of liquor or table wine shall
9 be made on or from the premises of any state liquor store
10 nor shall any store be open for the sale of liquor or table
11 wine:

- 12 (a) on any holiday recognized by state law;
- 13 (b) during such other period and on such other days as
14 the department may direct."

15 Section 12. Section 16-2-106, MCA, is amended to read:

16 "16-2-106. Purchase price in advance. A store manager
17 may sell to any person such liquor and table wine as that
18 person is entitled to purchase in conformity with the
19 provisions of this code and the rules made thereunder,
20 provided that no delivery shall take place until the
21 purchaser has paid the purchase price."

22 Section 13. Section 16-2-107, MCA, is amended to read:

23 "16-2-107. No open liquor alcoholic beverage container
24 or liquor alcoholic beverage consumption on premises of
25 state store. No officer, clerk, or agent of the department

1 employed in a state store shall allow any ~~liquor~~ alcoholic
2 beverage container to be opened on the premises of a state
3 store or allow any ~~liquor~~ alcoholic beverage to be consumed
4 on the premises of a state store, nor shall any person open
5 ~~a liquor~~ an alcoholic beverage container or consume any
6 ~~liquor~~ alcoholic beverage on such premises."

7 Section 14. Section 16-2-108, MCA, is amended to read:

8 "16-2-108. Disposition of money received. All moneys
9 received from the sale of liquor and table wine at the state
10 liquor stores shall be deposited in the enterprise fund in
11 the state treasury to the credit of the department. The
12 department is hereby authorized to purchase liquor and table
13 wine from moneys deposited to its account in the enterprise
14 fund. The department shall pay from its account in the
15 enterprise fund its administrative expenses, subject to the
16 limits imposed by legislative appropriation. No obligation
17 created or incurred by the department may ever be or become
18 a debt or claim against the state of Montana but shall be
19 payable by the department solely from funds derived from the
20 operation of state liquor stores. The department shall pay
21 into the state treasury to the credit of the general fund
22 the receipts from all taxes and licenses collected by it and
23 also the net proceeds from the operation of state liquor
24 stores."

25 Section 15. Section 16-2-203, MCA, is amended to read:

1 "16-2-203. Department sales to licensees. The
 2 department may sell through its stores to licensees licensed
 3 under this code all kinds of liquor, ~~wine containing more~~
 4 ~~than 14% alcohol by volume, and cordials kept in stock,~~ and
 5 table wine at the posted price thereof in the store in which
 6 the liquor ~~is~~ and table wine are sold. All sales shall be
 7 upon a cash basis."

8 Section 16. Section 16-2-302, MCA, is amended to read:

9 "16-2-302. State distribution. The department may
 10 import and distribute one or more named table wines to one
 11 or more designated state liquor stores, in the same manner
 12 as if the ~~table wine~~ contained more than 16% alcohol by
 13 volume."

14 Section 17. Section 16-3-101, MCA, is amended to read:

15 "16-3-101. Liquor Alcoholic beverages dispensed only
 16 in accordance with code. No brewer, beer importer,
 17 distiller, or manufacturer of liquor alcoholic beverages
 18 shall, within the state, by himself, his clerk, servant, or
 19 agent, give to any person any liquor alcoholic beverage
 20 except as may be permitted by and in accordance with the
 21 rules made under this code."

22 Section 18. Section 16-3-105, MCA, is amended to read:

23 "16-3-105. Restrictions on liquor alcoholic beverages
 24 in hotels. Except in the case of ~~liquor or beer~~ alcoholic
 25 beverages kept or consumed in premises for which a license

1 has been granted under the law and which form a part of a
 2 hotel, no person shall:

3 (1) keep or consume liquor alcoholic beverages in any
 4 part of a hotel other than a private guest room;

5 (2) keep or have any liquor alcoholic beverage in any
 6 room in a hotel unless he is a bona fide guest of the hotel
 7 and is duly registered in the office of the hotel as an
 8 occupant of that room."

9 Section 19. Section 16-3-106, MCA, is amended to read:

10 "16-3-106. Conveyance of liquors, table wines, and
 11 beer -- opening liquor alcoholic beverages during transit
 12 forbidden. (1) It shall be lawful to carry or convey liquor
 13 or table wine to any state store and to and from any
 14 warehouse or depot established by the department for the
 15 purposes of this code, and when permitted to do so by this
 16 code and the rules made thereunder and in accordance
 17 therewith, it shall be lawful for any common carrier or
 18 other person to carry or convey liquor or table wine sold by
 19 a vendor from a state store or beer, when lawfully sold by a
 20 brewer, from the premises wherein such beer was manufactured
 21 or from premises where the beer may be lawfully kept and
 22 sold to any place to which the same may be lawfully
 23 delivered under this code and the rules made thereunder.

24 (2) No common carrier or any other person shall open,
 25 break, or allow to be opened or broken any package or vessel

1 containing ~~liquor~~ an alcoholic beverage or drink or use or
 2 allow to be drunk or used any ~~liquor~~ alcoholic beverage
 3 therefrom while being carried or conveyed."

4 Section 20. Section 16-3-310, MCA, is amended to read:

5 "16-3-310. Lapse of license for nonuse. Any retail
 6 license issued pursuant to this code (including any retail
 7 license to sell beer and table wine for off-premises
 8 consumption) not actually used in a going establishment for
 9 90 days shall automatically lapse. Upon determining the
 10 fact of nonuse for such period, the department shall cancel
 11 such license of record and no portion of the fee paid
 12 therefor shall be refundable. The provisions of this
 13 section shall not apply to the license of any licensee whose
 14 premises are operated on a seasonal basis in connection with
 15 a bona fide dude ranch, resort, park hotel, tourist
 16 facility, or like business, provided such licensee has
 17 secured written authority from the department to close and
 18 has licensed premises for a specified period of greater than
 19 90 days' duration. Should the department determine that
 20 such lapse was reasonably beyond the control of the
 21 licensee, then the lapse provision shall not apply."

22 Section 21. Section 16-3-401, MCA, is amended to read:

23 "16-3-401. Public policy. The public policy of the
 24 state of Montana is to maintain a system for the importation
 25 and sale of table wine by the state through state liquor

1 facilities and provide for, regulate, and control the
 2 acquisition, importation, and distribution of table wine
 3 ~~containing--not--more--than--14%--alcohol--by--volume~~ by licensed
 4 table wine distributors and the state."

5 Section 22. Section 16-4-106, MCA, is amended to read:

6 "16-4-106. Beer and table wine license transfers. A
 7 transfer of any brewer's, beer wholesaler's, table wine
 8 distributor's, beer retailer's, or table wine retailer's
 9 license may be made on application to the department with
 10 the consent of the department, provided that the transferee
 11 qualifies under this code."

12 Section 23. Section 16-4-108, MCA, is amended to read:

13 "16-4-108. Wine Table wine distributor's license. (1)
 14 Any person desiring to sell and distribute table wine at
 15 wholesale to retailers under the provisions of this code
 16 shall apply to the department of revenue for a license to do
 17 so and shall tender with his application the annual license
 18 fee of \$400 and the department may issue licenses to
 19 qualified applicants in accordance with the provisions of
 20 this code.

21 (2) All table wine distributors' licenses issued in
 22 any year expire on June 30 at midnight of such year.

23 (3) No license fee may be imposed upon table wine
 24 distributors by a municipality or any other political
 25 subdivision of the state.

1 (4) The license shall be at all times prominently
2 displayed in the place of business of such table wine
3 distributor.

4 (5) An applicant shall have a fixed place of business,
5 sufficient capital, the facilities, storehouse, receiving
6 house or warehouse for the receiving of, storage, handling,
7 and moving of table wine in large and jobbing quantities for
8 distribution and sale in original packages to other licensed
9 table wine distributors or licensed retailers. Each table
10 wine distributor is entitled to only one wholesale table
11 wine license, which license shall be issued for his
12 principal place of business in Montana. A duplicate license
13 may be issued for one subwarehouse only in Montana for each
14 table wine distributor's license. The duplicate license
15 shall at all times be prominently displayed at said
16 subwarehouse. A table wine distributor may also hold a
17 license to sell beer at wholesale but shall not hold or have
18 any interest, direct or indirect, in any license to sell
19 beer, table wine, or liquor at retail.

20 (6) If the applicant is a foreign corporation, the
21 corporation must be authorized to do business in Montana."

22 Section 24. Section 16-4-201, MCA, is amended to read:
23 "16-4-201. All-beverages license quota. (1) Except as
24 otherwise provided by law, a license to sell liquor, beer,
25 and table wine at retail (an all-beverages license) in

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

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

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

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

24 (2) The number of the inhabitants in such cities and
25 towns, exclusive of the number of inhabitants residing

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

17 (3) Retail all-beverages licenses of issue on March 7,
 18 1947, and all-beverages licenses issued under 16-4-209,
 19 which are in excess of the foregoing limitations shall be
 20 renewable, but no new licenses may be issued in violation of
 21 such limitations.

22 (4) Such limitations do not prevent the issuance of a
 23 nontransferable and nonassignable (as to ownership only)
 24 retail license to an enlisted men's, noncommissioned
 25 officers', or officers' club located on a state or federal

1 military reservation on May 13, 1985, or to any post of a
 2 nationally chartered veterans' organization or any lodge of
 3 a recognized national fraternal organization if such
 4 veterans' or fraternal organization has been in existence
 5 for a period of 5 years 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 25. Section 16-4-202, MCA, is amended to read:
 15 "16-4-202. Resort licenses. (1) It is the intent and
 16 purpose of this section to encourage the growth of quality
 17 recreational resort facilities in undeveloped areas of the
 18 state and to provide for the orderly growth of existing
 19 recreational sites by the establishment of resort areas
 20 within which retail ~~liquor~~ all-beverages licenses may be
 21 issued by the department under the terms and as more
 22 particularly prescribed below. In addition to the licenses
 23 as otherwise set forth in this code, the department may
 24 issue resort retail ~~liquor~~ all-beverages licenses in a
 25 resort area.

1 (2) For the purposes of this section, a resort area is
 2 defined as a recreational facility meeting the
 3 qualifications determined by the department as hereinafter
 4 provided.

5 (3) The department shall determine that the area for
 6 which licenses are to be issued is a resort area, such
 7 determination to be made under and pursuant to rules to be
 8 first promulgated on or before December 31, 1975.

9 (4) In addition to the other requirements of this
 10 code, a resort area, for the purposes of qualification for
 11 the issuance of a resort retail ~~liquor~~ all-beverages
 12 license, must have a current actual valuation of resort or
 13 recreational facilities, including land and improvements
 14 thereon, of not less than \$500,000, at least half of which
 15 valuation must be for a structure or structures within the
 16 resort area, and must be under the sole ownership or control
 17 of one person or entity at the time of the filing of the
 18 resort area plat referred to in subsection (5) of this
 19 section. The word control shall mean lands held under
 20 lease, option, or permit.

21 (5) The resort area must be determined by the resort
 22 developer or landowner by a plat setting forth the resort
 23 boundaries, designating the ownership of the lands within
 24 the resort area, which plat must be verified by the resort
 25 developer or landowner and filed with the department prior

1 to the filing of any applications by individuals for
 2 licenses within the resort area. Such plat must show the
 3 location and general design of the buildings and other
 4 improvements to be built in said area in which resort retail
 5 ~~liquor~~ all-beverages licenses are to or may be located. A
 6 master plan for the development of the area may be filed by
 7 the resort developer in satisfaction of this section.

8 (6) Upon such filing the department shall forthwith
 9 schedule a public hearing to be held in Helena, Montana, to
 10 determine whether the facility proposed by the resort
 11 developer or landowner is a resort area within the meaning
 12 of the rules of the department. At least 30 days prior to
 13 the date of the hearing, the department shall publish notice
 14 thereof, with a description of the location of the proposed
 15 resort area, in a newspaper published in the county or
 16 counties in which the resort is located, once a week for 4
 17 consecutive weeks. Each resort developer or landowner
 18 shall, at the time of filing his application, pay to the
 19 department an amount sufficient to cover the costs of said
 20 publication.

21 (7) Persons may present statements to the department
 22 at the hearing in person or in writing in opposition or
 23 support of the plat.

24 (8) Within 30 days of the hearing, the department
 25 shall accept or reject the plat. If rejected the department

1 must state its reasons and set forth the conditions, if any,
 2 under which the plat will be accepted, and the decision of
 3 the department may be reviewed pursuant to the review
 4 procedure set forth in 16-4-406.

5 (9) Once filed with the department, the boundaries of
 6 a resort may not be changed without full hearing as above
 7 provided and the prior approval of the department, which
 8 approval shall be according to public convenience and
 9 necessity.

10 (10) (a) When the department has accepted a plat and a
 11 given resort area has been determined, applications may then
 12 be filed with the department by persons for the issuance of
 13 resort retail ~~liquor~~ all-beverages licenses within the
 14 resort area.

15 (b) Each applicant must submit plans showing the
 16 location, appearance, and floor plan of the premises for
 17 which application for a license is made.

18 (c) If an applicant otherwise qualifies for a resort
 19 license but the premises to be licensed are still in
 20 construction or are otherwise incomplete at the time of such
 21 application, the department shall issue a letter stating
 22 that the license will be issued at such time as the
 23 qualifications for a licensed premises have been met,
 24 setting forth such time limitations and requirements as the
 25 department may establish.

1 (11) In addition to the restrictions on sale or
 2 transfer of a license as provided in 16-4-204 and 16-4-404,
 3 no resort retail ~~liquor~~ all-beverages license may be sold or
 4 transferred for operation at a location outside of the
 5 boundaries of the resort area.

6 (12) A resort retail ~~liquor~~ all-beverages license shall
 7 not be subject to the quota limitations set forth in
 8 16-4-201, and if the requirements of this section have been
 9 met, a resort retail ~~liquor~~ all-beverages license shall be
 10 issued by the department on the basis that the department
 11 has determined that such license is justified by public
 12 convenience and necessity, in accordance with the procedure
 13 required in 16-4-207."

14 Section 26. Section 16-4-208, MCA, is amended to read:
 15 "16-4-208. Airport all-beverages license. (1) The
 16 department of revenue shall issue one all-beverages license,
 17 to be known as a public airport all-beverages license, for
 18 use at each publicly owned airport served by scheduled
 19 airlines and enplaning and deplaning a minimum total of
 20 20,000 passengers annually when:

- 21 (a) application is made;
- 22 (b) upon finding that this license is justified by
- 23 public convenience and necessity, including the convenience
- 24 and necessity of the public traveling by scheduled airlines;
- 25 and

1 (c) following a hearing as provided in 16-4-207.
 2 (2) Application shall be made by the agency owning and
 3 operating the airport. The agency owning and operating the
 4 airport may lease the airport all-beverages license to an
 5 individual or entity approved by the department.
 6 (3) A public airport all-beverages license and all
 7 retail ~~liquor~~ alcoholic beverage sales thereunder shall be
 8 subject to all statutes and rules governing all-beverages
 9 licenses.
 10 (4) The department of revenue shall issue a public
 11 airport all-beverages license to a qualified applicant
 12 regardless of the number of all-beverages licenses already
 13 issued within the all-beverages license quota area in which
 14 the airport is situated."
 15 Section 27. Section 16-4-302, MCA, is amended to read:
 16 "16-4-302. Passenger carrier licenses. Common carriers
 17 serving Montana may serve ~~beer--and---liquor~~ alcoholic
 18 beverages to passengers in aircraft over or railroad cars in
 19 the state of Montana upon the issuance of a retail ~~beer--and~~
 20 ~~liquor~~ all-beverages license by the department for that
 21 purpose. Such licenses shall be issued on an annual basis
 22 to common carriers making application therefor and shall be
 23 effective from July 1 of the current year to July 1 of the
 24 following year."
 25 Section 28. Section 16-4-401, MCA, is amended to read:

1 "16-4-401. License as privilege -- criteria for
 2 decision on application. (1) A license under this code is a
 3 privilege which the state may grant to an applicant and is
 4 not a right to which any applicant is entitled.
 5 (2) Except as provided in subsection (6), in the case
 6 of a license that permits on-premises consumption, the
 7 department must find in every case in which it makes an
 8 order for the issuance of a new license or for the approval
 9 of the transfer of a license that:
 10 (a) in the case of an individual applicant:
 11 (i) the applicant will not possess an ownership
 12 interest in more than one establishment licensed under this
 13 chapter for all-beverages sales;
 14 (ii) the applicant or any member of his immediate
 15 family is without financing from or any affiliation to a
 16 manufacturer, importer, bottler, or distributor of ~~beer;~~
 17 ~~wine; or-liquor~~ alcoholic beverages;
 18 (iii) the applicant is a resident of the state and is
 19 qualified to vote in a state election;
 20 (iv) the applicant's past record and present status as
 21 a purveyor of alcoholic beverages and as a businessman and
 22 citizen demonstrate that he is likely to operate his
 23 establishment in compliance with all applicable laws of the
 24 state and local governments; and
 25 (v) the applicant is not under the age of 19 years;

1 and

2 (b) in the case of a corporate applicant:

3 (i) the owners of at least 51% of the outstanding

4 stock meet the requirements of subsection (2)(a)(iii);

5 (ii) each owner of 10% or more of the outstanding stock

6 meets the requirements for an individual applicant listed in

7 subsection (2)(a) of this section;

8 (iii) the corporation is authorized to do business in

9 Montana; and

10 (iv) in the case of a corporation not listed on a

11 national stock exchange, each owner of stock meets the

12 requirements of subsection (2)(a)(i); and

13 (c) in the case of any other business entity as

14 applicant:

15 (i) if the applicant consists of more than one

16 individual, all must meet the requirements of subsection

17 (2)(a); and

18 (ii) if the applicant consists of more than one

19 corporation, all must meet the requirements of subsection

20 (2)(b).

21 (3) In the case of a license that permits only

22 off-premises consumption, the department must find in every

23 case in which it makes an order for the issuance of a new

24 license or for the approval of the transfer of a license

25 that:

1 (a) in the case of an individual applicant:

2 (i) the applicant will not possess an ownership

3 interest in more than one establishment licensed under this

4 chapter for all-beverages sales;

5 (ii) the applicant or any member of his immediate

6 family is without financing from or any affiliation to a

7 manufacturer, importer, bottler, or distributor of ~~beer~~

8 ~~wine, or liquor~~ alcoholic beverages;

9 (iii) the applicant has not been convicted of a felony

10 or, if the applicant has been convicted of a felony, his

11 rights have been restored;

12 (iv) the applicant's past record and present status as

13 a purveyor of alcoholic beverages and as a businessman and

14 citizen demonstrate that he is likely to operate his

15 establishment in compliance with all applicable laws of the

16 state and local governments; and

17 (v) the applicant is not under the age of 19 years;

18 and

19 (b) in the case of a corporate applicant:

20 (i) the owners of at least 51% of the outstanding

21 stock meet the requirements of subsection (3)(a)(iii);

22 (ii) each owner of 10% or more of the outstanding stock

23 meets the requirements for an individual listed in

24 subsection (3)(a) of this section; and

25 (iii) the corporation is authorized to do business in

1 Montana; and

2 (c) in the case of any other business entity as
3 applicant:

4 (i) if the applicant consists of more than one
5 individual, all must meet the requirements of subsection
6 (3)(a); and

7 (ii) if the applicant consists of more than one
8 corporation, all must meet the requirements of subsection
9 (3)(b).

10 (4) In the case of a license that permits the
11 manufacture, importing, or wholesaling of an alcoholic
12 beverage, the department must find in every case in which it
13 makes an order for the issuance of a new license or for the
14 approval of the transfer of a license that:

15 (a) in the case of an individual applicant:

16 (i) the applicant has no ownership interest in any
17 establishment licensed under this chapter for retail
18 alcoholic beverages sales;

19 (ii) the applicant has not been convicted of a felony
20 or, if the applicant has been convicted of a felony, his
21 rights have been restored;

22 (iii) the applicant's past record and present status as
23 a purveyor of alcoholic beverages and as a businessman and
24 citizen demonstrate that he is likely to operate his
25 establishment in compliance with all applicable laws of the

1 state and local governments;

2 (iv) the applicant is not under the age of 19 years;
3 and

4 (v) an applicant for a wholesale license is neither a
5 manufacturer of an alcoholic beverage nor is owned or
6 controlled by a manufacturer of an alcoholic beverage; and

7 (b) in the case of a corporate applicant:

8 (i) the owners of at least 51% of the outstanding
9 stock meet the requirements of subsection (4)(a)(ii);

10 (ii) each owner of 10% or more of the outstanding stock
11 meets the requirements for an individual listed in
12 subsection (4)(a) of this section;

13 (iii) an applicant for a wholesale license is neither a
14 manufacturer of an alcoholic beverage nor is owned or
15 controlled by a manufacturer of an alcoholic beverage; and

16 (iv) the corporation is authorized to do business in
17 Montana; and

18 (c) in the case of any other business entity as
19 applicant:

20 (i) if the applicant consists of more than one
21 individual, all must meet the requirements of subsection
22 (4)(a); and

23 (ii) if the applicant consists of more than one
24 corporation, all must meet the requirements of subsection
25 (4)(b).

1 (5) In the case of a corporate applicant, the
2 requirements of subsections (2)(b), (3)(b), and (4)(b) apply
3 separately to each class of stock.

4 (6) The provisions of subsection (2) do not apply to
5 an applicant for or holder of a license pursuant to
6 16-4-302."

7 Section 29. Section 16-4-404, MCA, is amended to read:

8 "16-4-404. Protest period -- contents of license --
9 posting -- privilege -- transfer. (1) No license may be
10 issued until on or after the date set in the notice for
11 hearing protests.

12 (2) Every license issued under this code shall set
13 forth the name of the person to whom issued, the location,
14 by street and number or other appropriate specific
15 description of location if no street address exists, of the
16 premises where the business is to be carried on under said
17 license, and such other information as the department shall
18 deem necessary. If the licensee is a partnership or if more
19 than one person has any interest in the business operated
20 under the license, the names of all persons in the
21 partnership or interested in the business must appear on the
22 license. Every license must be posted in a conspicuous
23 place on the premises wherein the business authorized under
24 the license is conducted, and such license shall be
25 exhibited upon request to any authorized representative of

1 the department or to any peace officer of the state of
2 Montana.

3 (3) Any license issued under the provisions of this
4 code shall be considered a privilege personal to the
5 licensee named in the license and shall be good until the
6 expiration of the license unless sooner revoked or
7 suspended.

8 (4) A license may be transferred to the executor or
9 administrator of the estate of any deceased licensee when
10 such estate consists in whole or in part of the business of
11 selling ~~liquor~~ alcoholic beverages under a license, and in
12 such event the license may descend or be disposed of with
13 the business to which it is applicable under appropriate
14 probate proceedings.

15 (5) In the event of a major loss or damage to licensed
16 premises by unforeseen natural causes or in case of
17 expiration of lease of the licensed premises or in the event
18 of eviction or increase of rent by the landlord (in case of
19 rented licensed premises) or in case of proposed removal of
20 license to premises as substantially suited for the retail
21 ~~liquor~~ alcoholic beverages business as the premises vacated,
22 the licensee may apply to the department for a transfer of
23 the license to different premises. The department may in its
24 discretion permit a transfer in such cases if it appears to
25 the department that such a transfer is required to do

1 justice to the licensee applying for the transfer. The
 2 department shall in no event nor for any cause permit a
 3 transfer to different premises where the sanitary, health,
 4 and service facilities are less satisfactory than such
 5 facilities which exist or had existed at the premises from
 6 which the transfer is proposed to be made.

7 (6) Upon a bona fide sale of the business operated
 8 under any license, the license may be transferred to a
 9 qualified purchaser. No transfer of any license as to
 10 person or location shall be effective unless and until
 11 approved by the department, and any licensee or transferee
 12 or proposed transferee who operates or attempts to operate
 13 under any supposedly transferred license prior to the
 14 approval of such transfer by the department, endorsed upon
 15 the license in writing, shall be considered as operating
 16 without a license and the license affected may be revoked or
 17 suspended by the department. The department may, within its
 18 discretion, permit a qualified purchaser to operate the
 19 business to be transferred pending final approval, providing
 20 the application for transfer has been filed with the
 21 department.

22 (7) Except as provided in subsections (2) through (6)
 23 and 16-4-204, no license shall be transferred or sold nor
 24 shall it be used for any place of business not described in
 25 the license; provided, however, that such license may be

1 subject to mortgage and other valid liens, in which event
 2 the name of the mortgagee, upon application to and approval
 3 of the department, must be endorsed on the license."

4 Section 30. Section 16-4-405, MCA, is amended to read:

5 "16-4-405. Denial of license. (1) The department may
 6 deny the issuance of a retail ~~beer--or--all-beverages~~
 7 alcoholic beverages license if it determines that the
 8 premises proposed for licensing are off regular police beats
 9 and cannot be properly policed by local authorities.

10 (2) No retail license may be issued by the department
 11 for any premises situated within any zone of such city or
 12 town where the sale of ~~beer-or-liquor~~ alcoholic beverages is
 13 prohibited by ordinance, a certified copy of which has been
 14 filed with the department.

15 (3) Nor may a license under this code be issued if the
 16 department finds from the evidence at the hearing that the
 17 welfare of the people residing in the vicinity of the place
 18 for which such license is desired will be adversely and
 19 seriously affected or that the purposes of this code will
 20 not be carried out by the issuance of such license."

21 Section 31. Section 16-4-411, MCA, is amended to read:

22 "16-4-411. Appeals concerning ~~liquor---and---beer~~
 23 alcoholic beverages laws. (1) Any interested party shall
 24 have the right to appeal any decision of the department of
 25 revenue concerning the issuance, transfer, suspension, or

1 revocation of ~~beer-or-liquor~~ alcoholic beverages licenses to
 2 the district court in the county in which the issuance,
 3 transfer, suspension, or revocation occurred or, at the
 4 appellant's option, in the district court of the first
 5 judicial district.

6 (2) The appeal must be in conformity with the
 7 provisions of Title 2, chapter 4, part 7."

8 Section 32. Section 16-4-501, MCA, is amended to read:

9 "16-4-501. License and permit fees. (1) Each beer
 10 licensee licensed to sell either beer or table wine only, or
 11 both beer and table wine, under the provisions of this code,
 12 shall pay an annual license fee as follows:

13 (a) each brewer and each beer importer, wherever
 14 located, whose product is sold or offered for sale within
 15 the state, \$500; for each storage depot, \$400;

16 (b) each beer wholesaler, \$400; each table wine
 17 distributor, \$400; each subwarehouse, \$400;

18 (c) each beer retailer, \$200; ~~with--a--wine--license~~
 19 ~~amendment;--an-additional--\$200;~~

20 (d) for a license to sell beer at retail for
 21 off-premises consumption only, the same as a retail beer
 22 license; for a license to sell table wine at retail for
 23 off-premises consumption only, either alone or in
 24 conjunction with beer, \$200;

25 (e) any unit of a nationally chartered veterans'

1 organization, \$50.

2 (2) The permit fee under 16-4-301(1) is computed at
 3 the rate of \$15 a day for each day beer and table wine are
 4 sold at those events lasting 2 or more days but in no case
 5 be less than \$30.

6 (3) The permit fee under 16-4-301(2) is \$10 for the
 7 sale of beer and table wine only or \$20 for the sale of all
 8 alcoholic beverages.

9 (4) Passenger carrier licenses shall be issued upon
 10 payment by the applicant of an annual license fee in the sum
 11 of \$300.

12 (5) The annual license fee for a license to sell wine
 13 on the premises, when issued as an amendment to a beer-only
 14 license pursuant to 16-4-105, is \$200.

15 (6) The annual fee for resort retail liquor
 16 all-beverages licenses within a given resort area shall be
 17 \$2,000 for each license.

18 (7) Each licensee licensed under the quotas of
 19 16-4-201 shall pay an annual license fee as follows:

20 (a) except as hereinafter provided, for each license
 21 outside of incorporated cities and incorporated towns or in
 22 incorporated cities and incorporated towns with a population
 23 of less than 2,000, \$250 for a unit of a nationally
 24 chartered veterans' organization and \$400 for all other
 25 licensees;

1 (b) except as hereinafter provided, for each license
 2 in incorporated cities with a population of more than 2,000
 3 and less than 5,000 or within a distance of 5 miles thereof,
 4 measured in a straight line from the nearest entrance of the
 5 premises to be licensed to the nearest boundary of such
 6 city, \$350 for a unit of a nationally chartered veterans'
 7 organization and \$500 for all other licensees;

8 (c) except as hereinafter provided, for each license
 9 in incorporated cities with a population of more than 5,000
 10 and less than 10,000 or within a distance of 5 miles
 11 thereof, measured in a straight line from the nearest
 12 entrance of the premises to be licensed to the nearest
 13 boundary of such city, \$500 for a unit of a nationally
 14 chartered veterans' organization and \$650 for all other
 15 licensees;

16 (d) for each license in incorporated cities with a
 17 population of 10,000 or more or within a distance of 5 miles
 18 thereof, measured in a straight line from the nearest
 19 entrance of the premises to be licensed to the nearest
 20 boundary of such city, \$650 for a unit of a nationally
 21 chartered veterans' organization and \$800 for all other
 22 licensees;

23 (e) the distance of 5 miles from the corporate limits
 24 of any incorporated cities and incorporated towns is
 25 measured in a straight line from the nearest entrance of the

1 premises to be licensed to the nearest boundary of such city
 2 or town; and where the premises of the applicant to be
 3 licensed are situated within 5 miles of the corporate
 4 boundaries of two or more incorporated cities or
 5 incorporated towns of different populations, the license fee
 6 chargeable by the larger incorporated city or incorporated
 7 town applies and shall be paid by the applicant. When the
 8 premises of the applicant to be licensed are situated within
 9 an incorporated town or incorporated city and any portion of
 10 the incorporated town or incorporated city is without a
 11 5-mile limit, the license fee chargeable by the smaller
 12 incorporated town or incorporated city applies and shall be
 13 paid by the applicant.

14 (f) an applicant for the issuance of an original
 15 license to be located in areas described in subsection (d)
 16 of this subsection shall provide an irrevocable letter of
 17 credit from a financial institution that guarantees that
 18 applicant's ability to pay a \$20,000 license fee. A
 19 successful applicant shall pay a one-time original license
 20 fee of \$20,000 for any such license issued. The one-time
 21 license fee of \$20,000 shall not apply to any transfer or
 22 renewal of a license duly issued prior to July 1, 1974. All
 23 licenses, however, are subject to the annual renewal fee.

24 (8) The fee for one all-beverage license to a public
 25 airport shall be \$800. This license is nontransferable.

1 (9) The license fees herein provided for are exclusive
2 of and in addition to other license fees chargeable in
3 Montana for the sale of alcoholic beverages.

4 (10) In addition to other license fees, the department
5 of revenue may require a licensee to pay a late fee of
6 33 1/3% of any license fee delinquent on July 1 of the
7 renewal year, 66 2/3% of any license fee delinquent on
8 August 1 of the renewal year, and 100% of any license fee
9 delinquent on September 1 of the renewal year."

10 Section 33. Section 16-6-104, MCA, is amended to read:

11 "16-6-104. Unlawful alcoholic beverage -- seizure --
12 forfeiture. (1) Any investigator or peace officer who finds
13 an alcoholic beverage which he has reasonable cause to
14 believe is had or kept by any person in violation of the
15 provisions of this code may forthwith seize and remove the
16 same and the packages in which the alcoholic beverage is
17 kept, and upon conviction of the person, the alcoholic
18 beverage and all packages containing the same shall, in
19 addition to any other penalty prescribed by this code, ipso
20 facto be forfeited to the state of Montana.

21 (2) Any beer which has been shipped into Montana and
22 has not been shipped to and distributed from a warehouse of
23 a licensed wholesaler shall be seized by any peace officer
24 or representative of the department and may be confiscated
25 in the manner as provided for the confiscation of

1 ~~intoxicating-liquor~~ alcoholic beverages."

2 Section 34. Section 16-6-301, MCA, is amended to read:

3 "16-6-301. Transfer, sale, and possession of alcoholic
4 beverages -- when unlawful. (1) Except as provided by this
5 code, no person shall, within the state, by himself, his
6 clerk, servant, or agent, expose or keep for sale or,
7 directly or indirectly or upon any pretense or upon any
8 device, sell or offer to sell or, in consideration of the
9 purchase or transfer of any property or for any other
10 consideration or at the time of the transfer of any
11 property, give to any other person any liquor alcoholic
12 beverage.

13 (2) No person shall have or keep any ~~liquor-within-the~~
14 state alcoholic beverage which has not been purchased from
15 within the state of Montana. Nothing in this code shall
16 prohibit any person entering this state from any other state
17 or from any foreign country from having in his possession
18 not to exceed 3 wine gallons of alcoholic ~~liquor--or--beer~~
19 beverage which ~~liquor--or--beer~~ beverage shall have been
20 purchased in another state or foreign country, but no person
21 claiming to have so entered the state shall at any time have
22 in his possession more than 3 wine gallons of ~~intoxicating~~
23 liquor alcoholic beverage which shall not have been
24 purchased ~~from-a-state-liquor--store~~ within the state of
25 Montana. This subsection shall not apply to the department

1 or to the keeping or having of ~~liquor~~ alcoholic beverages by
 2 brewers, distillers, and other persons duly licensed by the
 3 United States for the manufacture of such ~~liquor~~ alcoholic
 4 beverages or to the keeping or having of any proprietary or
 5 patent medicines or of any extracts, essences, tinctures, or
 6 preparations where such having and keeping is authorized by
 7 this code.

8 (3) Nothing contained in this section shall apply to
 9 the possession by a sheriff or his bailiff of ~~liquor~~
 10 alcoholic beverages seized under execution or other judicial
 11 or extrajudicial process or to sales under executions or
 12 other judicial or extrajudicial process to the department
 13 ~~or, in the case of beer, to a brewer, beer licensee, club~~
 14 ~~licensee, or canteen licensee~~ a licensee.

15 (4) Except as provided in this code, no person shall,
 16 within the state, by himself, his clerk, servant, or agent:

17 (a) attempt to purchase any alcoholic beverage;

18 (b) directly or indirectly or upon any pretense or
 19 device, purchase any alcoholic beverage; or

20 (c) in consideration of the sale or transfer of any
 21 property or for any other consideration or at the time of
 22 the transfer of any property, take or accept from any other
 23 person any alcoholic beverage."

24 Section 35. Section 16-6-305, MCA, is amended to read:

25 "16-6-305. Age limit for sale of alcoholic beverages.

1 (1) Except in the case of an alcoholic beverage given to a
 2 person under 19 years of age by his parent or guardian for
 3 beverage or medicinal purposes or administered to him by his
 4 physician or dentist for medicinal purposes or sold to him
 5 by a vendor or druggist upon the prescription of a
 6 physician, no person shall sell, give, or otherwise supply
 7 an alcoholic beverage to any person under 19 years of age or
 8 permit any person under that age to consume an alcoholic
 9 beverage.

10 (2) Any person shall be guilty of a misdemeanor who:

11 (a) invites a person under the age of 19 years into a
 12 public place where an alcoholic beverage is sold and treats,
 13 gives, or purchases an alcoholic beverage for such person;

14 (b) permits such person in a public place where an
 15 alcoholic beverage is sold to treat, give, or purchase
 16 ~~liquor~~ alcoholic beverages for him; or

17 (c) holds out such person to be 19 years of age or
 18 older to the owner of the establishment or his or her
 19 employee or employees.

20 (3) It is unlawful for any person to fraudulently
 21 misrepresent his or her age to any dispenser of alcoholic
 22 beverages or to falsely procure any identification card or
 23 to alter any of the statements contained in any
 24 identification card."

25 Section 36. Section 16-6-306, MCA, is amended to read:

1 "16-6-306. Bottle clubs prohibited. The operation of
 2 ~~beer-or-liquor-or~~ alcoholic beverage bottle clubs is hereby
 3 prohibited by any person, persons, partnership, firm,
 4 corporation, or association. A bottle club is defined as any
 5 person, persons, partnership, firm, corporation, or
 6 association maintaining premises not licensed for the sale
 7 of ~~beer-or-liquor~~ alcoholic beverages, for a fee or other
 8 consideration, including the sale of food, mixes, ice, or
 9 any other fluids for alcoholic ~~liquors~~ beverages, or
 10 otherwise furnishing premises for such purposes and from
 11 which they would derive revenue."

12 Section 37. Section 16-6-309, MCA, is amended to read:

13 "16-6-309. ~~Liquor~~ Alcoholic beverages administered to
 14 institution inmates. No ~~liquor~~ alcoholic beverage shall be
 15 administered by any person under 16-1-204 except to bona
 16 fide patients or inmates of the institution of which he is
 17 in charge, and every person in charge of an institution who
 18 administers ~~liquor~~ alcoholic beverages in evasion or
 19 violation of this code shall be guilty of an offense against
 20 this code."

21 Section 38. Section 16-6-312, MCA, is amended to read:

22 "16-6-312. Premises where ~~liquor~~ alcoholic beverages
 23 illegally sold public nuisance. Any room, house, building,
 24 boat, vehicle, structure, or place where alcoholic beverages
 25 are knowingly manufactured, sold, or bartered in violation

1 of this code or 45-8-111 and all property knowingly kept and
 2 used in maintaining the same is hereby declared to be a
 3 public nuisance, and any person who maintains such a
 4 nuisance shall be guilty of a misdemeanor and upon
 5 conviction thereof shall be fined not less than \$100 or more
 6 than \$500 and be imprisoned not less than 30 days or more
 7 than 6 months."

8 Section 39. Section 16-6-313, MCA, is amended to read:

9 "16-6-313. Injunction actions. An action to enjoin any
 10 nuisance defined in this code may be brought in the name of
 11 the state of Montana by the attorney general of the state or
 12 by any county attorney. Such action shall be brought and
 13 tried as an action in equity and may be brought in any court
 14 having jurisdiction to hear and determine equity cases. If
 15 it is made to appear, by affidavits or otherwise, to the
 16 satisfaction of the court or judge in vacation that such
 17 nuisance exists, a temporary writ of injunction shall
 18 forthwith issue restraining the defendant from conducting or
 19 permitting the continuance of such nuisance until the
 20 conclusion of the trial. If a temporary injunction is
 21 prayed for, the court may issue an order restraining the
 22 defendant and all other persons from removing or in any way
 23 interfering with the fixtures or other things used in
 24 connection with the violation of this code constituting such
 25 nuisance. No bond shall be required in instituting such

1 proceedings. It shall not be necessary for the court to find
 2 the property involved was being unlawfully used at the time
 3 of the hearing, but on finding that the material allegations
 4 of the petition are true, the court shall order that no
 5 ~~liquor--or--beer~~ alcoholic beverages shall be manufactured,
 6 sold, or bartered in such room, house, building, boat,
 7 vehicle, structure, or place or any part thereof. Upon
 8 judgment of the court ordering such nuisance to be abated,
 9 the court may order that the room, house, building,
 10 structure, boat, vehicle, or place shall not be occupied or
 11 used for 1 year thereafter. The court may, in its
 12 discretion, permit it to be occupied or used if the owner,
 13 lessee, tenant, or occupant thereof shall give bond with
 14 sufficient surety, to be approved by the court making the
 15 order, in the penal and liquidated sum of not less than \$500
 16 or more than \$1,000, payable to the state of Montana and
 17 conditioned that ~~liquor--or--beer~~ alcoholic beverages will not
 18 thereafter be manufactured, sold, or bartered therein or
 19 thereon and that he will pay all fines, costs, and damages
 20 that may be assessed for any violations of this code upon
 21 said property."

22 NEW SECTION. Section 40. Extension of authority. Any
 23 existing authority of the department of revenue to make
 24 rules on the subject of the provisions of this act is
 25 extended to the provisions of this act.

1 NEW SECTION. SECTION 41. COORDINATION. IF HOUSE BILL
 2 NO. 313, (LC 481), (LC 1194) OR ANY OTHER LEGISLATION
 3 ENACTED BY THE 50TH LEGISLATURE DELETES OR MODIFIES THE
 4 AUTHORITY OF THE DEPARTMENT OF REVENUE TO IMPORT AND SELL
 5 TABLE WINE, ANY AMENDMENT IN THIS ACT THAT ADDS THE PHRASE
 6 "AND TABLE WINE" AFTER THE WORD "LIQUOR" IS VOID TO THE
 7 EXTENT SUCH AMENDMENTS CONFLICT WITH THE SUBSTANTIVE POLICY
 8 REGARDING TABLE WINE CONTAINED IN SUCH OTHER ACT. THE CODE
 9 COMMISSIONER, IN CONSULTATION WITH THE AGENCY ADMINISTERING
 10 THE LIQUOR LAWS, SHALL DELETE SUCH VOID AMENDMENTS ENACTED
 11 IN THIS ACT FROM THE NEXT PUBLICATION OF THE MONTANA CODE
 12 ANNOTATED.

-End-

1 HOUSE BILL NO. 133

2 INTRODUCED BY M. WILLIAMS, BLAYLOCK, HARRINGTON,

3 MAZUREK, B. BROWN, HARP

4 BY REQUEST OF THE DEPARTMENT OF REVENUE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CONSISTENT
7 CERTAIN TERMS IN THE MONTANA ALCOHOLIC BEVERAGE CODE; AND
8 AMENDING SECTIONS 16-1-101, 16-1-104 THROUGH 16-1-106,
9 16-1-201, 16-1-204, 16-1-303, 16-1-405, 16-2-101, 16-2-103,
10 16-2-104, 16-2-106 THROUGH 16-2-108, 16-2-203, 16-2-302,
11 16-3-101, 16-3-105, 16-3-106, 16-3-310, 16-3-401, 16-4-106,
12 16-4-108, 16-4-201, 16-4-202, 16-4-208, 16-4-302, 16-4-401,
13 16-4-404, 16-4-405, 16-4-411, 16-4-501, 16-6-104, 16-6-301,
14 16-6-305, 16-6-306, 16-6-309, 16-6-312, AND 16-6-313, MCA."

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

17 Section 1. Section 16-1-101, MCA, is amended to read:

18 "16-1-101. Citation -- declaration of policy --
19 subject matters of regulation. (1) Chapters 1 through 6 of
20 this title may be cited as the "Montana Alcoholic Beverage
21 Code".

22 (2) It is hereby declared to be the policy of the
23 state of Montana to effectuate and ensure the entire control
24 of the manufacture, sale, and distribution of liquor
25 alcoholic beverages within the state of Montana, as that

1 term is defined in this code, subject to the authority of
2 the state of Montana through the Montana department of
3 revenue.

4 (3) This code is an exercise of the police power of
5 the state, in and for the protection of the welfare, health,
6 peace, morals, and safety of the people of the state, and
7 its provisions shall be construed for the accomplishment of
8 such purposes."

9 Section 2. Section 16-1-104, MCA, is amended to read:

10 "16-1-104. Intent and construction of code. The
11 purpose and intent of this code are to prohibit transactions
12 in liquor alcoholic beverages which take place wholly within
13 the state of Montana except under state control as
14 specifically provided by this code, and every section and
15 provision of this code shall be construed accordingly. The
16 provisions of this code dealing with the importation, sale,
17 and disposition of liquor alcoholic beverages within the
18 state, through the instrumentality of a department and
19 otherwise, provide the means by which such state control
20 shall be made effective, and nothing in this code shall be
21 construed as forbidding, affecting, or regulating any
22 transaction which is not subject to the legislative
23 authority of the state."

24 Section 3. Section 16-1-105, MCA, is amended to read:

25 "16-1-105. Divisions of code. This code is divided

1 into six chapters. Chapter 1 relates to the authority of
 2 the department of revenue to administer this code and the
 3 powers and functions of the department. Chapter 2 relates to
 4 the establishment of state stores and the keeping and
 5 selling of liquors. Chapter 3 relates to the control of
 6 liquor, wine, and beer. Chapter 4 relates to license
 7 administration. Chapter 5 ~~relates~~ (now repealed) related to
 8 identification cards. Chapter 6 relates to enforcement."

9 Section 4. Section 16-1-106, MCA, is amended to read:

10 "16-1-106. Definitions. As used in this code, the
 11 following definitions apply:

12 (1) "Agency agreement" means an agreement between the
 13 department and a person appointed to sell liquor and table
 14 wine as a commission merchant rather than as an employee.

15 (2) "Alcohol" means ethyl alcohol, also called
 16 ethanol, or the hydrated oxide of ethyl.

17 (3) "Alcoholic beverage" means a compound produced and
 18 sold for human consumption as a drink that contains more
 19 than .5% of alcohol by volume.

20 (4) "Beer" means a malt beverage containing not more
 21 than 7% of alcohol by weight.

22 (5) "Beer importer" means a person other than a brewer
 23 who imports malt beverages.

24 (6) "Brewer" means a person who produces malt
 25 beverages.

1 (7) "Department" means the department of revenue.

2 (8) "Immediate family" means a spouse, dependent
 3 children, or dependent parents.

4 (9) "Import" means to transfer beer or table wine from
 5 outside the state of Montana into the state of Montana.

6 (10) "Industrial use" means a use described as
 7 industrial use by the federal Alcohol Administration Act and
 8 the federal rules and regulations of 27 CFR.

9 (11) "Liquor" means an alcoholic beverage except beer
 10 and table wine.

11 (12) "Malt beverage" means an alcoholic beverage made
 12 by the fermentation of an infusion or decoction, or a
 13 combination of both, in potable brewing water, of malted
 14 barley with or without hops or their parts or their products
 15 and with or without other malted cereals and with or without
 16 the addition of unmalted or prepared cereals, other
 17 carbohydrates, or products prepared therefrom and with or
 18 without other wholesome products suitable for human food
 19 consumption.

20 (13) "Package" means a container or receptacle used for
 21 holding an alcoholic beverage.

22 (14) "Posted price" means the retail price of liquor
 23 and table wine as fixed and determined by the department and
 24 in addition thereto an excise and license tax as provided in
 25 this code.

1 (15) "Proof gallon" means a U.S. gallon of liquor at 60
2 degrees on the Fahrenheit scale that contains 50% of alcohol
3 by volume.

4 (16) "Public place" means a place, building, or
5 conveyance to which the public has or may be permitted to
6 have access and any place of public resort.

7 (17) "Rules" means rules published by the department
8 pursuant to this code.

9 (18) "State liquor facility" means a facility owned or
10 under control of the department for the purpose of
11 receiving, storing, transporting, or selling alcoholic
12 beverages.

13 (19) "State liquor store" means a retail store operated
14 by the department in accordance with this code for the
15 purpose of selling liquor and table wine.

16 (20) "Storage depot" means a building or structure
17 owned or operated by a brewer at any point in the state of
18 Montana off and away from the premises of a brewery, and
19 which structure is equipped with refrigeration or cooling
20 apparatus for the storage of beer and from which a brewer
21 may sell or distribute beer as permitted by this code.

22 (21) "Subwarehouse" means a building or structure owned
23 or operated by a licensed beer wholesaler or table wine
24 distributor, located at a site in Montana other than the
25 site of such beer wholesaler's or table wine distributor's

1 warehouse or principal place of business, and used for the
2 receiving, storage, and distribution of beer or table wine
3 as permitted by this code.

4 (22) "Table wine" means wine as defined below which
5 contains not more than 16% alcohol by volume.

6 (23) "Warehouse" means a building or structure located
7 in Montana owned or operated by a licensed beer wholesaler
8 or table wine distributor for the receiving, storage, and
9 distribution of beer or table wine as permitted by this
10 code.

11 (24) "Wine" means an alcoholic beverage made from or
12 containing the normal alcoholic fermentation of the juice of
13 sound, ripe fruit or other agricultural products without
14 addition or abstraction, except as may occur in the usual
15 cellar treatment of clarifying and aging, and that contains
16 more than 0.5% but not more than 24% of alcohol by volume.
17 Wine may be ameliorated to correct natural deficiencies,
18 sweetened, and fortified in accordance with applicable
19 federal regulations and the customs and practices of the
20 industry. Other alcoholic beverages not defined as above
21 but made in the manner of wine and labeled and sold as wine
22 in accordance with federal regulations are also wine."

23 Section 5. Section 16-1-201, MCA, is amended to read:

24 "16-1-201. Acts not covered by code. (1) Nothing in
25 this code shall prevent any brewer, distiller, or other

1 person, duly licensed under the provisions of any statute of
 2 the United States of America for the manufacture of liquor
 3 alcoholic beverages, from having or keeping liquor alcoholic
 4 beverages in a place and in the manner authorized by or
 5 under any such statute.

6 (2) It is hereby declared to be the policy of the
 7 state of Montana that the manufacture of liquor alcoholic
 8 beverages, including the distillation, rectification,
 9 bottling, and processing as these terms are defined under
 10 the provisions of the laws of the United States, shall be
 11 authorized and permitted by any brewer, distiller,
 12 rectifier, or other person duly licensed under any provision
 13 of any statute of the United States of America in a place
 14 and in the manner authorized by or under any statute of the
 15 United States, provided the department may make such rules
 16 as the department deems necessary with respect thereto not
 17 inconsistent with this code or with the statutes of the
 18 United States of America or regulations issued under the
 19 provisions of the federal Alcohol Administration Act, Title
 20 27, United States Code, sections 201 through 212, inclusive,
 21 or regulations issued under the provisions of the Internal
 22 Revenue Code, Title 26, United States Code, sections 5001
 23 through 5693, inclusive.

24 (3) Nothing in this code shall prevent:

25 (a) the sale of liquor or table wine by any person to

1 the department;

2 (b) the purchase, importation, and sale of liquor and
 3 table wine by the department for the purposes of and in
 4 accordance with this code."

5 Section 6. Section 16-1-204, MCA, is amended to read:

6 "16-1-204. Licensed hospital or health care facility.
 7 Any person in charge of an institution regularly conducted
 8 as a licensed hospital or health care facility may
 9 administer liquor alcoholic beverages purchased by him to
 10 any patient or inmate of the institution and may charge for
 11 the liquor alcoholic beverages so administered."

12 Section 7. Section 16-1-303, MCA, is amended to read:

13 "16-1-303. Department rules. (1) The department may
 14 make such rules not inconsistent with this code as to the
 15 department seem necessary for carrying out the provisions of
 16 this code and for the efficient administration thereof.

17 (2) Without thereby limiting the generality of the
 18 provisions contained in subsection (1) hereof, it is
 19 declared that the power of the department to make rules in
 20 the manner set out in that subsection shall extend to and
 21 include the following:

22 (a) regulating the equipment and management of state
 23 stores and warehouses in which liquor or table wine is kept
 24 or sold and prescribing the books and records to be kept
 25 therein;

1 (b) prescribing the duties of the employees of the
2 liquor division and regulating their conduct while in the
3 discharge of their duties;

4 (c) governing the purchase of liquor and table wine
5 and the furnishing of liquor and table wine to state stores
6 established under this code;

7 (d) determining the classes, varieties, and brands of
8 liquor and table wine to be kept for sale at any state
9 store;

10 (e) prescribing, subject to this code, the hours
11 during which state liquor stores shall be kept open for the
12 sale of alcoholic beverages;

13 (f) providing for the issuing and distributing of
14 price lists showing the price to be paid by purchasers for
15 each class, variety, or brand of liquor and table wine kept
16 for sale under this code;

17 (g) prescribing forms to be used for the purpose of
18 this code or of the rules made thereunder and the terms and
19 conditions in permits and licenses issued and granted under
20 this code;

21 (h) prescribing the form of records of purchase of
22 liquor and table wine and the reports to be made thereon to
23 the division and providing for inspection of the records so
24 kept;

25 (i) prescribing the manner of giving and serving

1 notices required by this code or the rules thereunder;

2 (j) prescribing the fees payable in respect of permits
3 and licenses issued under this code for which no fees are
4 prescribed in this code and prescribing the fees for
5 anything done or permitted to be done under the rules made
6 thereunder;

7 (k) prescribing, subject to the provisions of this
8 code, the conditions and qualifications necessary for the
9 obtaining of ~~a--liquor--or--beer--license~~ alcoholic beverage
10 licenses and the books and records to be kept and the
11 returns to be made by the licensees and providing for the
12 inspection of such licensed premises;

13 (l) specifying and describing the place and the manner
14 in which ~~liquor--or--beer~~ alcoholic beverages may be lawfully
15 kept or stored;

16 (m) specifying and regulating the time and periods
17 when and the manner, methods, and means by which vendors and
18 brewers shall deliver ~~liquor~~ alcoholic beverages under this
19 code and the time and periods when and the manner, methods,
20 and means by which ~~liquor~~ alcoholic beverages, under this
21 code, may be lawfully conveyed or carried;

22 (n) governing the conduct, management, and equipment
23 of any premises licensed to sell ~~liquor--or--beer~~ alcoholic
24 beverages under this code;

25 (o) providing for the imposition and collection of

1 taxes and making rules respecting returns, accounting, and
 2 payment of the taxes to the department.

3 (3) Whenever it is provided in this code that any act,
 4 matter, or thing may be done if permitted or authorized by
 5 the rules or may be done in accordance with the rules or as
 6 provided by the rules, the department, subject to the
 7 restrictions set out in subsection (1) hereof, shall have
 8 the power to make rules respecting such act, matter, or
 9 thing."

10 Section 8. Section 16-1-405, MCA, is amended to read:

11 "16-1-405. Use of license tax proceeds. The license
 12 tax moneys when so apportioned shall be deposited to the
 13 credit of the general funds of said incorporated cities,
 14 towns, and counties and shall be expended by said
 15 incorporated cities, towns, and counties for law enforcement
 16 and the regulation and control of the sale of liquor
 17 alcoholic beverages and the use thereof."

18 Section 9. Section 16-2-101, MCA, is amended to read:

19 "16-2-101. Establishment and closure of state liquor
 20 stores -- kinds and prices of liquor and table wine. (1) (a)
 21 The department shall establish and maintain one or more
 22 stores, to be known as "state liquor stores", as the
 23 department finds feasible for the sale of liquor and table
 24 wine in accordance with the provisions of this code and the
 25 rules made thereunder.

1 (b) The department shall enter into an agency
 2 agreement or employ the necessary help to operate said
 3 stores and shall designate the duties to be performed by the
 4 agent or employees.

5 (2) The department may from time to time fix the
 6 prices at which the various classes, varieties, and brands
 7 of liquor and table wine may be sold, and prices shall be
 8 the same at all state stores."

9 Section 10. Section 16-2-103, MCA, is amended to read:

10 "16-2-103. Duplicate invoices of sales required. (1)
 11 The state liquor store shall, upon each sale of liquor or
 12 table wine to any licensee, issue a duplicate invoice of the
 13 liquor or table wine purchased, as provided by the
 14 department, a copy of which shall be delivered to the
 15 licensee and one copy retained at such store.

16 (2) The invoice shall show the date of purchase, name
 17 of employee making the sale, the quantity of each kind of
 18 liquor or table wine purchased, the price paid therefor, the
 19 name of the licensee, and the number of the license, with
 20 such other information as may be required by the department.

21 (3) The licensee shall keep and retain his duplicate
 22 invoice of all purchases made by him from the state liquor
 23 store, which shall at all times be subject to inspection by
 24 the duly authorized officers, agents, and employees of the
 25 department."

1 Section 11. Section 16-2-104, MCA, is amended to read:

2 "16-2-104. Hours. (1) State liquor stores shall be and
3 remain open during such period of the day as the department
4 shall deem advisable. The stores shall be closed for the
5 transaction of business on legal holidays and between the
6 close of normal business Saturday p.m. up to the opening of
7 normal business Tuesday a.m. as set by department rule.

8 (2) No sale or delivery of liquor or table wine shall
9 be made on or from the premises of any state liquor store
10 nor shall any store be open for the sale of liquor or table
11 wine:

- 12 (a) on any holiday recognized by state law;
- 13 (b) during such other period and on such other days as
- 14 the department may direct."

15 Section 12. Section 16-2-106, MCA, is amended to read:

16 "16-2-106. Purchase price in advance. A store manager
17 may sell to any person such liquor and table wine as that
18 person is entitled to purchase in conformity with the
19 provisions of this code and the rules made thereunder,
20 provided that no delivery shall take place until the
21 purchaser has paid the purchase price."

22 Section 13. Section 16-2-107, MCA, is amended to read:

23 "16-2-107. No open liquor alcoholic beverage container
24 or liquor alcoholic beverage consumption on premises of
25 state store. No officer, clerk, or agent of the department

1 employed in a state store shall allow any ~~liquor~~ alcoholic
2 beverage container to be opened on the premises of a state
3 store or allow any ~~liquor~~ alcoholic beverage to be consumed
4 on the premises of a state store, nor shall any person open
5 a-~~liquor~~ an alcoholic beverage container or consume any
6 ~~liquor~~ alcoholic beverage on such premises."

7 Section 14. Section 16-2-108, MCA, is amended to read:

8 "16-2-108. Disposition of money received. All moneys
9 received from the sale of liquor and table wine at the state
10 liquor stores shall be deposited in the enterprise fund in
11 the state treasury to the credit of the department. The
12 department is hereby authorized to purchase liquor and table
13 wine from moneys deposited to its account in the enterprise
14 fund. The department shall pay from its account in the
15 enterprise fund its administrative expenses, subject to the
16 limits imposed by legislative appropriation. No obligation
17 created or incurred by the department may ever be or become
18 a debt or claim against the state of Montana but shall be
19 payable by the department solely from funds derived from the
20 operation of state liquor stores. The department shall pay
21 into the state treasury to the credit of the general fund
22 the receipts from all taxes and licenses collected by it and
23 also the net proceeds from the operation of state liquor
24 stores."

25 Section 15. Section 16-2-203, MCA, is amended to read:

1 "16-2-201. Department sales to licensees. The
 2 department may sell through its stores to licensees licensed
 3 under this code all kinds of liquor, ~~wine containing more~~
 4 ~~than 14% alcohol by volume and cordials kept in stock, and~~
 5 table wine at the posted price thereof in the store in which
 6 the liquor is and table wine are sold. All sales shall be
 7 upon a cash basis."

8 Section 16. Section 16-2-302, MCA, is amended to read:

9 "16-2-302. State distribution. The department may
 10 import and distribute one or more named table wines to one
 11 or more designated state liquor stores, in the same manner
 12 as if the table wine contained more than ~~14%~~ 16% alcohol by
 13 volume."

14 Section 17. Section 16-3-101, MCA, is amended to read:

15 "16-3-101. Liquor Alcoholic beverages dispensed only
 16 in accordance with code. No brewer, beer importer,
 17 distiller, or manufacturer of liquor alcoholic beverages
 18 shall, within the state, by himself, his clerk, servant, or
 19 agent, give to any person any liquor alcoholic beverage
 20 except as may be permitted by and in accordance with the
 21 rules made under this code."

22 Section 18. Section 16-3-105, MCA, is amended to read:

23 "16-3-105. Restrictions on liquor alcoholic beverages
 24 in hotels. Except in the case of liquor or beer alcoholic
 25 beverages kept or consumed in premises for which a license

1 has been granted under the law and which form a part of a
 2 hotel, no person shall:

3 (1) keep or consume liquor alcoholic beverages in any
 4 part of a hotel other than a private guest room;

5 (2) keep or have any liquor alcoholic beverage in any
 6 room in a hotel unless he is a bona fide guest of the hotel
 7 and is duly registered in the office of the hotel as an
 8 occupant of that room."

9 Section 19. Section 16-3-106, MCA, is amended to read:

10 "16-3-106. Conveyance of liquors, table wines, and
 11 beer -- opening liquor alcoholic beverages during transit
 12 forbidden. (1) It shall be lawful to carry or convey liquor
 13 or table wine to any state store and to and from any
 14 warehouse or depot established by the department for the
 15 purposes of this code, and when permitted to do so by this
 16 code and the rules made thereunder and in accordance
 17 therewith, it shall be lawful for any common carrier or
 18 other person to carry or convey liquor or table wine sold by
 19 a vendor from a state store or beer, when lawfully sold by a
 20 brewer, from the premises wherein such beer was manufactured
 21 or from premises where the beer may be lawfully kept and
 22 sold to any place to which the same may be lawfully
 23 delivered under this code and the rules made thereunder.

24 (2) No common carrier or any other person shall open,
 25 break, or allow to be opened or broken any package or vessel

1 containing ~~liquor~~ an alcoholic beverage or drink or use or
 2 allow to be drunk or used any ~~liquor~~ alcoholic beverage
 3 therefrom while being carried or conveyed."

4 Section 20. Section 16-3-310, MCA, is amended to read:

5 "16-3-310. Lapse of license for nonuse. Any retail
 6 license issued pursuant to this code (including any retail
 7 license to sell beer and table wine for off-premises
 8 consumption) not actually used in a going establishment for
 9 90 days shall automatically lapse. Upon determining the
 10 fact of nonuse for such period, the department shall cancel
 11 such license of record and no portion of the fee paid
 12 therefor shall be refundable. The provisions of this
 13 section shall not apply to the license of any licensee whose
 14 premises are operated on a seasonal basis in connection with
 15 a bona fide dude ranch, resort, park hotel, tourist
 16 facility, or like business, provided such licensee has
 17 secured written authority from the department to close and
 18 has licensed premises for a specified period of greater than
 19 90 days' duration. Should the department determine that
 20 such lapse was reasonably beyond the control of the
 21 licensee, then the lapse provision shall not apply."

22 Section 21. Section 16-3-401, MCA, is amended to read:

23 "16-3-401. Public policy. The public policy of the
 24 state of Montana is to maintain a system for the importation
 25 and sale of table wine by the state through state liquor

1 facilities and provide for, regulate, and control the
 2 acquisition, importation, and distribution of table wine
 3 ~~containing--not--more--than--14%--alcohol--by--volume~~ by licensed
 4 table wine distributors and the state."

5 Section 22. Section 16-4-106, MCA, is amended to read:

6 "16-4-106. Beer and table wine license transfers. A
 7 transfer of any brewer's, beer wholesaler's, table wine
 8 distributor's, beer retailer's, or table wine retailer's
 9 license may be made on application to the department with
 10 the consent of the department, provided that the transferee
 11 qualifies under this code."

12 Section 23. Section 16-4-108, MCA, is amended to read:

13 "16-4-108. Wine Table wine distributor's license. (1)
 14 Any person desiring to sell and distribute table wine at
 15 wholesale to retailers under the provisions of this code
 16 shall apply to the department of revenue for a license to do
 17 so and shall tender with his application the annual license
 18 fee of \$400 and the department may issue licenses to
 19 qualified applicants in accordance with the provisions of
 20 this code.

21 (2) All table wine distributors' licenses issued in
 22 any year expire on June 30 at midnight of such year.

23 (3) No license fee may be imposed upon table wine
 24 distributors by a municipality or any other political
 25 subdivision of the state.

1 (4) The license shall be at all times prominently
2 displayed in the place of business of such table wine
3 distributor.

4 (5) An applicant shall have a fixed place of business,
5 sufficient capital, the facilities, storehouse, receiving
6 house or warehouse for the receiving of, storage, handling,
7 and moving of table wine in large and jobbing quantities for
8 distribution and sale in original packages to other licensed
9 table wine distributors or licensed retailers. Each table
10 wine distributor is entitled to only one wholesale table
11 wine license, which license shall be issued for his
12 principal place of business in Montana. A duplicate license
13 may be issued for one subwarehouse only in Montana for each
14 table wine distributor's license. The duplicate license
15 shall at all times be prominently displayed at said
16 subwarehouse. A table wine distributor may also hold a
17 license to sell beer at wholesale but shall not hold or have
18 any interest, direct or indirect, in any license to sell
19 beer, table wine, or liquor at retail.

20 (6) If the applicant is a foreign corporation, the
21 corporation must be authorized to do business in Montana."

22 Section 24. Section 16-4-201, MCA, is amended to read:
23 "16-4-201. All-beverages license quota. (1) Except as
24 otherwise provided by law, a license to sell liquor, beer,
25 and table wine at retail (an all-beverages license) in

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

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

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

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

24 (2) The number of the inhabitants in such cities and
25 towns, exclusive of the number of inhabitants residing

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

17 (3) Retail all-beverages licenses of issue on March 7,
 18 1947, and all-beverages licenses issued under 16-4-209,
 19 which are in excess of the foregoing limitations shall be
 20 renewable, but no new licenses may be issued in violation of
 21 such limitations.

22 (4) Such limitations do not prevent the issuance of a
 23 nontransferable and nonassignable (as to ownership only)
 24 retail license to an enlisted men's, noncommissioned
 25 officers', or officers' club located on a state or federal

1 military reservation on May 13, 1985, or to any post of a
 2 nationally chartered veterans' organization or any lodge of
 3 a recognized national fraternal organization if such
 4 veterans' or fraternal organization has been in existence
 5 for a period of 5 years 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 25. Section 16-4-202, MCA, is amended to read:
 15 "16-4-202. Resort licenses. (1) It is the intent and
 16 purpose of this section to encourage the growth of quality
 17 recreational resort facilities in undeveloped areas of the
 18 state and to provide for the orderly growth of existing
 19 recreational sites by the establishment of resort areas
 20 within which retail ~~liquor~~ all-beverages licenses may be
 21 issued by the department under the terms and as more
 22 particularly prescribed below. In addition to the licenses
 23 as otherwise set forth in this code, the department may
 24 issue resort retail ~~liquor~~ all-beverages licenses in a
 25 resort area.

1 (2) For the purposes of this section, a resort area is
 2 defined as a recreational facility meeting the
 3 qualifications determined by the department as hereinafter
 4 provided.

5 (3) The department shall determine that the area for
 6 which licenses are to be issued is a resort area, such
 7 determination to be made under and pursuant to rules to be
 8 first promulgated on or before December 31, 1975.

9 (4) In addition to the other requirements of this
 10 code, a resort area, for the purposes of qualification for
 11 the issuance of a resort retail ~~liquor~~ all-beverages
 12 license, must have a current actual valuation of resort or
 13 recreational facilities, including land and improvements
 14 thereon, of not less than \$500,000, at least half of which
 15 valuation must be for a structure or structures within the
 16 resort area, and must be under the sole ownership or control
 17 of one person or entity at the time of the filing of the
 18 resort area plat referred to in subsection (5) of this
 19 section. The word control shall mean lands held under
 20 lease, option, or permit.

21 (5) The resort area must be determined by the resort
 22 developer or landowner by a plat setting forth the resort
 23 boundaries, designating the ownership of the lands within
 24 the resort area, which plat must be verified by the resort
 25 developer or landowner and filed with the department prior

1 to the filing of any applications by individuals for
 2 licenses within the resort area. Such plat must show the
 3 location and general design of the buildings and other
 4 improvements to be built in said area in which resort retail
 5 ~~liquor~~ all-beverages licenses are to or may be located. A
 6 master plan for the development of the area may be filed by
 7 the resort developer in satisfaction of this section.

8 (6) Upon such filing the department shall forthwith
 9 schedule a public hearing to be held in Helena, Montana, to
 10 determine whether the facility proposed by the resort
 11 developer or landowner is a resort area within the meaning
 12 of the rules of the department. At least 30 days prior to
 13 the date of the hearing, the department shall publish notice
 14 thereof, with a description of the location of the proposed
 15 resort area, in a newspaper published in the county or
 16 counties in which the resort is located, once a week for 4
 17 consecutive weeks. Each resort developer or landowner
 18 shall, at the time of filing his application, pay to the
 19 department an amount sufficient to cover the costs of said
 20 publication.

21 (7) Persons may present statements to the department
 22 at the hearing in person or in writing in opposition or
 23 support of the plat.

24 (8) Within 30 days of the hearing, the department
 25 shall accept or reject the plat. If rejected the department

1 must state its reasons and set forth the conditions, if any,
2 under which the plat will be accepted, and the decision of
3 the department may be reviewed pursuant to the review
4 procedure set forth in 16-4-406.

5 (9) Once filed with the department, the boundaries of
6 a resort may not be changed without full hearing as above
7 provided and the prior approval of the department, which
8 approval shall be according to public convenience and
9 necessity.

10 (10) (a) When the department has accepted a plat and a
11 given resort area has been determined, applications may then
12 be filed with the department by persons for the issuance of
13 resort retail liquor all-beverages licenses within the
14 resort area.

15 (b) Each applicant must submit plans showing the
16 location, appearance, and floor plan of the premises for
17 which application for a license is made.

18 (c) If an applicant otherwise qualifies for a resort
19 license but the premises to be licensed are still in
20 construction or are otherwise incomplete at the time of such
21 application, the department shall issue a letter stating
22 that the license will be issued at such time as the
23 qualifications for a licensed premises have been met,
24 setting forth such time limitations and requirements as the
25 department may establish.

1 (11) In addition to the restrictions on sale or
2 transfer of a license as provided in 16-4-204 and 16-4-404,
3 no resort retail liquor all-beverages license may be sold or
4 transferred for operation at a location outside of the
5 boundaries of the resort area.

6 (12) A resort retail liquor all-beverages license shall
7 not be subject to the quota limitations set forth in
8 16-4-201, and if the requirements of this section have been
9 met, a resort retail liquor all-beverages license shall be
10 issued by the department on the basis that the department
11 has determined that such license is justified by public
12 convenience and necessity, in accordance with the procedure
13 required in 16-4-207."

14 Section 26. Section 16-4-208, MCA, is amended to read:

15 "16-4-208. Airport all-beverages license. (1) The
16 department of revenue shall issue one all-beverages license,
17 to be known as a public airport all-beverages license, for
18 use at each publicly owned airport served by scheduled
19 airlines and enplaning and deplaning a minimum total of
20 20,000 passengers annually when:

21 (a) application is made;

22 (b) upon finding that this license is justified by
23 public convenience and necessity, including the convenience
24 and necessity of the public traveling by scheduled airlines;
25 and

1 (c) following a hearing as provided in 16-4-207.
 2 (2) Application shall be made by the agency owning and
 3 operating the airport. The agency owning and operating the
 4 airport may lease the airport all-beverages license to an
 5 individual or entity approved by the department.
 6 (3) A public airport all-beverages license and all
 7 retail ~~liquor~~ alcoholic beverage sales thereunder shall be
 8 subject to all statutes and rules governing all-beverages
 9 licenses.
 10 (4) The department of revenue shall issue a public
 11 airport all-beverages license to a qualified applicant
 12 regardless of the number of all-beverages licenses already
 13 issued within the all-beverages license quota area in which
 14 the airport is situated."
 15 Section 27. Section 16-4-302, MCA, is amended to read:
 16 "16-4-302. Passenger carrier licenses. Common carriers
 17 serving Montana may serve ~~beer--and---liquor~~ alcoholic
 18 beverages to passengers in aircraft over or railroad cars in
 19 the state of Montana upon the issuance of a retail ~~beer-and~~
 20 ~~liquor~~ all-beverages license by the department for that
 21 purpose. Such licenses shall be issued on an annual basis
 22 to common carriers making application therefor and shall be
 23 effective from July 1 of the current year to July 1 of the
 24 following year."
 25 Section 28. Section 16-4-401, MCA, is amended to read:

1 "16-4-401. License as privilege -- criteria for
 2 decision on application. (1) A license under this code is a
 3 privilege which the state may grant to an applicant and is
 4 not a right to which any applicant is entitled.
 5 (2) Except as provided in subsection (6), in the case
 6 of a license that permits on-premises consumption, the
 7 department must find in every case in which it makes an
 8 order for the issuance of a new license or for the approval
 9 of the transfer of a license that:
 10 (a) in the case of an individual applicant:
 11 (i) the applicant will not possess an ownership
 12 interest in more than one establishment licensed under this
 13 chapter for all-beverages sales;
 14 (ii) the applicant or any member of his immediate
 15 family is without financing from or any affiliation to a
 16 manufacturer, importer, bottler, or distributor of ~~beer;~~
 17 ~~wine-or-liquor~~ alcoholic beverages;
 18 (iii) the applicant is a resident of the state and is
 19 qualified to vote in a state election;
 20 (iv) the applicant's past record and present status as
 21 a purveyor of alcoholic beverages and as a businessman and
 22 citizen demonstrate that he is likely to operate his
 23 establishment in compliance with all applicable laws of the
 24 state and local governments; and
 25 (v) the applicant is not under the age of 19 years;

1 and

2 (b) in the case of a corporate applicant:

3 (i) the owners of at least 51% of the outstanding

4 stock meet the requirements of subsection (2)(a)(iii);

5 (ii) each owner of 10% or more of the outstanding stock

6 meets the requirements for an individual applicant listed in

7 subsection (2)(a) of this section;

8 (iii) the corporation is authorized to do business in

9 Montana; and

10 (iv) in the case of a corporation not listed on a

11 national stock exchange, each owner of stock meets the

12 requirements of subsection (2)(a)(i); and

13 (c) in the case of any other business entity as

14 applicant:

15 (i) if the applicant consists of more than one

16 individual, all must meet the requirements of subsection

17 (2)(a); and

18 (ii) if the applicant consists of more than one

19 corporation, all must meet the requirements of subsection

20 (2)(b).

21 (3) In the case of a license that permits only

22 off-premises consumption, the department must find in every

23 case in which it makes an order for the issuance of a new

24 license or for the approval of the transfer of a license

25 that:

1 (a) in the case of an individual applicant:

2 (i) the applicant will not possess an ownership

3 interest in more than one establishment licensed under this

4 chapter for all-beverages sales;

5 (ii) the applicant or any member of his immediate

6 family is without financing from or any affiliation to a

7 manufacturer, importer, bottler, or distributor of beer,

8 ~~wine~~ or-liquor alcoholic beverages;

9 (iii) the applicant has not been convicted of a felony

10 or, if the applicant has been convicted of a felony, his

11 rights have been restored;

12 (iv) the applicant's past record and present status as

13 a purveyor of alcoholic beverages and as a businessman and

14 citizen demonstrate that he is likely to operate his

15 establishment in compliance with all applicable laws of the

16 state and local governments; and

17 (v) the applicant is not under the age of 19 years;

18 and

19 (b) in the case of a corporate applicant:

20 (i) the owners of at least 51% of the outstanding

21 stock meet the requirements of subsection (3)(a)(iii);

22 (ii) each owner of 10% or more of the outstanding stock

23 meets the requirements for an individual listed in

24 subsection (3)(a) of this section; and

25 (iii) the corporation is authorized to do business in

1 Montana; and

2 (c) in the case of any other business entity as
3 applicant:

4 (i) if the applicant consists of more than one
5 individual, all must meet the requirements of subsection
6 (3)(a); and

7 (ii) if the applicant consists of more than one
8 corporation, all must meet the requirements of subsection
9 (3)(b).

10 (4) In the case of a license that permits the
11 manufacture, importing, or wholesaling of an alcoholic
12 beverage, the department must find in every case in which it
13 makes an order for the issuance of a new license or for the
14 approval of the transfer of a license that:

15 (a) in the case of an individual applicant:

16 (i) the applicant has no ownership interest in any
17 establishment licensed under this chapter for retail
18 alcoholic beverages sales;

19 (ii) the applicant has not been convicted of a felony
20 or, if the applicant has been convicted of a felony, his
21 rights have been restored;

22 (iii) the applicant's past record and present status as
23 a purveyor of alcoholic beverages and as a businessman and
24 citizen demonstrate that he is likely to operate his
25 establishment in compliance with all applicable laws of the

1 state and local governments;

2 (iv) the applicant is not under the age of 19 years;
3 and

4 (v) an applicant for a wholesale license is neither a
5 manufacturer of an alcoholic beverage nor is owned or
6 controlled by a manufacturer of an alcoholic beverage; and

7 (b) in the case of a corporate applicant:

8 (i) the owners of at least 51% of the outstanding
9 stock meet the requirements of subsection (4)(a)(ii);

10 (ii) each owner of 10% or more of the outstanding stock
11 meets the requirements for an individual listed in
12 subsection (4)(a) of this section;

13 (iii) an applicant for a wholesale license is neither a
14 manufacturer of an alcoholic beverage nor is owned or
15 controlled by a manufacturer of an alcoholic beverage; and

16 (iv) the corporation is authorized to do business in
17 Montana; and

18 (c) in the case of any other business entity as
19 applicant:

20 (i) if the applicant consists of more than one
21 individual, all must meet the requirements of subsection
22 (4)(a); and

23 (ii) if the applicant consists of more than one
24 corporation, all must meet the requirements of subsection
25 (4)(b).

1 (5) In the case of a corporate applicant, the
2 requirements of subsections (2)(b), (3)(b), and (4)(b) apply
3 separately to each class of stock.

4 (6) The provisions of subsection (2) do not apply to
5 an applicant for or holder of a license pursuant to
6 16-4-302."

7 Section 29. Section 16-4-404, MCA, is amended to read:

8 "16-4-404. Protest period -- contents of license --
9 posting -- privilege -- transfer. (1) No license may be
10 issued until on or after the date set in the notice for
11 hearing protests.

12 (2) Every license issued under this code shall set
13 forth the name of the person to whom issued, the location,
14 by street and number or other appropriate specific
15 description of location if no street address exists, of the
16 premises where the business is to be carried on under said
17 license, and such other information as the department shall
18 deem necessary. If the licensee is a partnership or if more
19 than one person has any interest in the business operated
20 under the license, the names of all persons in the
21 partnership or interested in the business must appear on the
22 license. Every license must be posted in a conspicuous
23 place on the premises wherein the business authorized under
24 the license is conducted, and such license shall be
25 exhibited upon request to any authorized representative of

1 the department or to any peace officer of the state of
2 Montana.

3 (3) Any license issued under the provisions of this
4 code shall be considered a privilege personal to the
5 licensee named in the license and shall be good until the
6 expiration of the license unless sooner revoked or
7 suspended.

8 (4) A license may be transferred to the executor or
9 administrator of the estate of any deceased licensee when
10 such estate consists in whole or in part of the business of
11 selling ~~liquor~~ alcoholic beverages under a license, and in
12 such event the license may descend or be disposed of with
13 the business to which it is applicable under appropriate
14 probate proceedings.

15 (5) In the event of a major loss or damage to licensed
16 premises by unforeseen natural causes or in case of
17 expiration of lease of the licensed premises or in the event
18 of eviction or increase of rent by the landlord (in case of
19 rented licensed premises) or in case of proposed removal of
20 license to premises as substantially suited for the retail
21 ~~liquor~~ alcoholic beverages business as the premises vacated,
22 the licensee may apply to the department for a transfer of
23 the license to different premises. The department may in its
24 discretion permit a transfer in such cases if it appears to
25 the department that such a transfer is required to do

1 justice to the licensee applying for the transfer. The
 2 department shall in no event nor for any cause permit a
 3 transfer to different premises where the sanitary, health,
 4 and service facilities are less satisfactory than such
 5 facilities which exist or had existed at the premises from
 6 which the transfer is proposed to be made.

7 (6) Upon a bona fide sale of the business operated
 8 under any license, the license may be transferred to a
 9 qualified purchaser. No transfer of any license as to
 10 person or location shall be effective unless and until
 11 approved by the department, and any licensee or transferee
 12 or proposed transferee who operates or attempts to operate
 13 under any supposedly transferred license prior to the
 14 approval of such transfer by the department, endorsed upon
 15 the license in writing, shall be considered as operating
 16 without a license and the license affected may be revoked or
 17 suspended by the department. The department may, within its
 18 discretion, permit a qualified purchaser to operate the
 19 business to be transferred pending final approval, providing
 20 the application for transfer has been filed with the
 21 department.

22 (7) Except as provided in subsections (2) through (6)
 23 and 16-4-204, no license shall be transferred or sold nor
 24 shall it be used for any place of business not described in
 25 the license; provided, however, that such license may be

1 subject to mortgage and other valid liens, in which event
 2 the name of the mortgagee, upon application to and approval
 3 of the department, must be endorsed on the license."

4 Section 30. Section 16-4-405, MCA, is amended to read:

5 "16-4-405. Denial of license. (1) The department may
 6 deny the issuance of a retail ~~beer--or--all-beverages~~
 7 alcoholic beverages license if it determines that the
 8 premises proposed for licensing are off regular police beats
 9 and cannot be properly policed by local authorities.

10 (2) No retail license may be issued by the department
 11 for any premises situated within any zone of such city or
 12 town where the sale of ~~beer-or-liquor~~ alcoholic beverages is
 13 prohibited by ordinance, a certified copy of which has been
 14 filed with the department.

15 (3) Nor may a license under this code be issued if the
 16 department finds from the evidence at the hearing that the
 17 welfare of the people residing in the vicinity of the place
 18 for which such license is desired will be adversely and
 19 seriously affected or that the purposes of this code will
 20 not be carried out by the issuance of such license."

21 Section 31. Section 16-4-411, MCA, is amended to read:

22 "16-4-411. Appeals concerning ~~liquor---and---beer~~
 23 alcoholic beverages laws. (1) Any interested party shall
 24 have the right to appeal any decision of the department of
 25 revenue concerning the issuance, transfer, suspension, or

1 revocation of ~~beer or liquor~~ alcoholic beverages licenses to
 2 the district court in the county in which the issuance,
 3 transfer, suspension, or revocation occurred or, at the
 4 appellant's option, in the district court of the first
 5 judicial district.

6 (2) The appeal must be in conformity with the
 7 provisions of Title 2, chapter 4, part 7."

8 Section 32. Section 16-4-501, MCA, is amended to read:

9 "16-4-501. License and permit fees. (1) Each beer
 10 licensee licensed to sell either beer or table wine only, or
 11 both beer and table wine, under the provisions of this code,
 12 shall pay an annual license fee as follows:

13 (a) each brewer and each beer importer, wherever
 14 located, whose product is sold or offered for sale within
 15 the state, \$500; for each storage depot, \$400;

16 (b) each beer wholesaler, \$400; each table wine
 17 distributor, \$400; each subwarehouse, \$400;

18 (c) each beer retailer, \$200; ~~with a wine license~~
 19 ~~amendment, an additional \$200;~~

20 (d) for a license to sell beer at retail for
 21 off-premises consumption only, the same as a retail beer
 22 license; for a license to sell table wine at retail for
 23 off-premises consumption only, either alone or in
 24 conjunction with beer, \$200;

25 (e) any unit of a nationally chartered veterans'

1 organization, \$50.

2 (2) The permit fee under 16-4-301(1) is computed at
 3 the rate of \$15 a day for each day beer and table wine are
 4 sold at those events lasting 2 or more days but in no case
 5 be less than \$30.

6 (3) The permit fee under 16-4-301(2) is \$10 for the
 7 sale of beer and table wine only or \$20 for the sale of all
 8 alcoholic beverages.

9 (4) Passenger carrier licenses shall be issued upon
 10 payment by the applicant of an annual license fee in the sum
 11 of \$300.

12 (5) The annual license fee for a license to sell wine
 13 on the premises, when issued as an amendment to a beer-only
 14 license pursuant to 16-4-105, is \$200.

15 (6) The annual fee for resort retail ~~liquor~~
 16 all-beverages licenses within a given resort area shall be
 17 \$2,000 for each license.

18 (7) Each licensee licensed under the quotas of
 19 16-4-201 shall pay an annual license fee as follows:

20 (a) except as hereinafter provided, for each license
 21 outside of incorporated cities and incorporated towns or in
 22 incorporated cities and incorporated towns with a population
 23 of less than 2,000, \$250 for a unit of a nationally
 24 chartered veterans' organization and \$400 for all other
 25 licensees;

1 (b) except as hereinafter provided, for each license
 2 in incorporated cities with a population of more than 2,000
 3 and less than 5,000 or within a distance of 5 miles thereof,
 4 measured in a straight line from the nearest entrance of the
 5 premises to be licensed to the nearest boundary of such
 6 city, \$350 for a unit of a nationally chartered veterans'
 7 organization and \$500 for all other licensees;

8 (c) except as hereinafter provided, for each license
 9 in incorporated cities with a population of more than 5,000
 10 and less than 10,000 or within a distance of 5 miles
 11 thereof, measured in a straight line from the nearest
 12 entrance of the premises to be licensed to the nearest
 13 boundary of such city, \$500 for a unit of a nationally
 14 chartered veterans' organization and \$650 for all other
 15 licensees;

16 (d) for each license in incorporated cities with a
 17 population of 10,000 or more or within a distance of 5 miles
 18 thereof, measured in a straight line from the nearest
 19 entrance of the premises to be licensed to the nearest
 20 boundary of such city, \$650 for a unit of a nationally
 21 chartered veterans' organization and \$800 for all other
 22 licensees;

23 (e) the distance of 5 miles from the corporate limits
 24 of any incorporated cities and incorporated towns is
 25 measured in a straight line from the nearest entrance of the

1 premises to be licensed to the nearest boundary of such city
 2 or town; and where the premises of the applicant to be
 3 licensed are situated within 5 miles of the corporate
 4 boundaries of two or more incorporated cities or
 5 incorporated towns of different populations, the license fee
 6 chargeable by the larger incorporated city or incorporated
 7 town applies and shall be paid by the applicant. When the
 8 premises of the applicant to be licensed are situated within
 9 an incorporated town or incorporated city and any portion of
 10 the incorporated town or incorporated city is without a
 11 5-mile limit, the license fee chargeable by the smaller
 12 incorporated town or incorporated city applies and shall be
 13 paid by the applicant.

14 (f) an applicant for the issuance of an original
 15 license to be located in areas described in subsection (d)
 16 of this subsection shall provide an irrevocable letter of
 17 credit from a financial institution that guarantees that
 18 applicant's ability to pay a \$20,000 license fee. A
 19 successful applicant shall pay a one-time original license
 20 fee of \$20,000 for any such license issued. The one-time
 21 license fee of \$20,000 shall not apply to any transfer or
 22 renewal of a license duly issued prior to July 1, 1974. All
 23 licenses, however, are subject to the annual renewal fee.

24 (g) The fee for one all-beverage license to a public
 25 airport shall be \$800. This license is nontransferable.

1 (9) The license fees herein provided for are exclusive
2 of and in addition to other license fees chargeable in
3 Montana for the sale of alcoholic beverages.

4 (10) In addition to other license fees, the department
5 of revenue may require a licensee to pay a late fee of
6 33 1/3% of any license fee delinquent on July 1 of the
7 renewal year, 66 2/3% of any license fee delinquent on
8 August 1 of the renewal year, and 100% of any license fee
9 delinquent on September 1 of the renewal year."

10 Section 33. Section 16-6-104, MCA, is amended to read:

11 "16-6-104. Unlawful alcoholic beverage -- seizure --
12 forfeiture. (1) Any investigator or peace officer who finds
13 an alcoholic beverage which he has reasonable cause to
14 believe is had or kept by any person in violation of the
15 provisions of this code may forthwith seize and remove the
16 same and the packages in which the alcoholic beverage is
17 kept, and upon conviction of the person, the alcoholic
18 beverage and all packages containing the same shall, in
19 addition to any other penalty prescribed by this code, ipso
20 facto be forfeited to the state of Montana.

21 (2) Any beer which has been shipped into Montana and
22 has not been shipped to and distributed from a warehouse of
23 a licensed wholesaler shall be seized by any peace officer
24 or representative of the department and may be confiscated
25 in the manner as provided for the confiscation of

1 ~~intoxicating-liquor~~ alcoholic beverages."

2 Section 34. Section 16-6-301, MCA, is amended to read:

3 "16-6-301. Transfer, sale, and possession of alcoholic
4 beverages -- when unlawful. (1) Except as provided by this
5 code, no person shall, within the state, by himself, his
6 clerk, servant, or agent, expose or keep for sale or,
7 directly or indirectly or upon any pretense or upon any
8 device, sell or offer to sell or, in consideration of the
9 purchase or transfer of any property or for any other
10 consideration or at the time of the transfer of any
11 property, give to any other person any liquor alcoholic
12 beverage.

13 (2) No person shall have or keep any ~~liquor-within-the~~
14 state alcoholic beverage which has not been purchased from
15 within the state of Montana. Nothing in this code shall
16 prohibit any person entering this state from any other state
17 or from any foreign country from having in his possession
18 not to exceed 3 wine gallons of alcoholic ~~liquor--or--beer~~
19 beverage which ~~liquor--or--beer~~ beverage shall have been
20 purchased in another state or foreign country, but no person
21 claiming to have so entered the state shall at any time have
22 in his possession more than 3 wine gallons of ~~intoxicating~~
23 liquor alcoholic beverage which shall not have been
24 purchased ~~from-a-state-liquor--store~~ within the state of
25 Montana. This subsection shall not apply to the department

1 or to the keeping or having of liquor alcoholic beverages by
 2 brewers, distillers, and other persons duly licensed by the
 3 United States for the manufacture of such liquor alcoholic
 4 beverages or to the keeping or having of any proprietary or
 5 patent medicines or of any extracts, essences, tinctures, or
 6 preparations where such having and keeping is authorized by
 7 this code.

8 (3) Nothing contained in this section shall apply to
 9 the possession by a sheriff or his bailiff of liquor
 10 alcoholic beverages seized under execution or other judicial
 11 or extrajudicial process or to sales under executions or
 12 other judicial or extrajudicial process to the department
 13 ~~or in the case of beer, to a brewer, beer licensee, club~~
 14 ~~licensee, or canteen licensee~~ a licensee.

15 (4) Except as provided in this code, no person shall,
 16 within the state, by himself, his clerk, servant, or agent:

- 17 (a) attempt to purchase any alcoholic beverage;
 18 (b) directly or indirectly or upon any pretense or
 19 device, purchase any alcoholic beverage; or
 20 (c) in consideration of the sale or transfer of any
 21 property or for any other consideration or at the time of
 22 the transfer of any property, take or accept from any other
 23 person any alcoholic beverage."

24 Section 35. Section 16-6-305, MCA, is amended to read:

25 "16-6-305. Age limit for sale of alcoholic beverages.

1 (1) Except in the case of an alcoholic beverage given to a
 2 person under 19 years of age by his parent or guardian for
 3 beverage or medicinal purposes or administered to him by his
 4 physician or dentist for medicinal purposes or sold to him
 5 by a vendor or druggist upon the prescription of a
 6 physician, no person shall sell, give, or otherwise supply
 7 an alcoholic beverage to any person under 19 years of age or
 8 permit any person under that age to consume an alcoholic
 9 beverage.

10 (2) Any person shall be guilty of a misdemeanor who:

11 (a) invites a person under the age of 19 years into a
 12 public place where an alcoholic beverage is sold and treats,
 13 gives, or purchases an alcoholic beverage for such person;

14 (b) permits such person in a public place where an
 15 alcoholic beverage is sold to treat, give, or purchase
 16 liquor alcoholic beverages for him; or

17 (c) holds out such person to be 19 years of age or
 18 older to the owner of the establishment or his or her
 19 employee or employees.

20 (3) It is unlawful for any person to fraudulently
 21 misrepresent his or her age to any dispenser of alcoholic
 22 beverages or to falsely procure any identification card or
 23 to alter any of the statements contained in any
 24 identification card."

25 Section 36. Section 16-6-306, MCA, is amended to read:

1 "16-6-306. Bottle clubs prohibited. The operation of
 2 ~~beer-or-liquor~~ alcoholic beverage bottle clubs is hereby
 3 prohibited by any person, persons, partnership, firm,
 4 corporation, or association. A bottle club is defined as any
 5 person, persons, partnership, firm, corporation, or
 6 association maintaining premises not licensed for the sale
 7 of ~~beer-or-liquor~~ alcoholic beverages, for a fee or other
 8 consideration, including the sale of food, mixes, ice, or
 9 any other fluids for alcoholic ~~liquors~~ beverages, or
 10 otherwise furnishing premises for such purposes and from
 11 which they would derive revenue."

12 Section 37. Section 16-6-309, MCA, is amended to read:

13 "16-6-309. ~~Liquor~~ Alcoholic beverages administered to
 14 institution inmates. No ~~liquor~~ alcoholic beverage shall be
 15 administered by any person under 16-1-204 except to bona
 16 fide patients or inmates of the institution of which he is
 17 in charge, and every person in charge of an institution who
 18 administers ~~liquor~~ alcoholic beverages in evasion or
 19 violation of this code shall be guilty of an offense against
 20 this code."

21 Section 38. Section 16-6-312, MCA, is amended to read:

22 "16-6-312. Premises where ~~liquor~~ alcoholic beverages
 23 illegally sold public nuisance. Any room, house, building,
 24 boat, vehicle, structure, or place where alcoholic beverages
 25 are knowingly manufactured, sold, or bartered in violation

1 of this code or 45-8-111 and all property knowingly kept and
 2 used in maintaining the same is hereby declared to be a
 3 public nuisance, and any person who maintains such a
 4 nuisance shall be guilty of a misdemeanor and upon
 5 conviction thereof shall be fined not less than \$100 or more
 6 than \$500 and be imprisoned not less than 30 days or more
 7 than 6 months."

8 Section 39. Section 16-6-313, MCA, is amended to read:

9 "16-6-313. Injunction actions. An action to enjoin any
 10 nuisance defined in this code may be brought in the name of
 11 the state of Montana by the attorney general of the state or
 12 by any county attorney. Such action shall be brought and
 13 tried as an action in equity and may be brought in any court
 14 having jurisdiction to hear and determine equity cases. If
 15 it is made to appear, by affidavits or otherwise, to the
 16 satisfaction of the court or judge in vacation that such
 17 nuisance exists, a temporary writ of injunction shall
 18 forthwith issue restraining the defendant from conducting or
 19 permitting the continuance of such nuisance until the
 20 conclusion of the trial. If a temporary injunction is
 21 prayed for, the court may issue an order restraining the
 22 defendant and all other persons from removing or in any way
 23 interfering with the fixtures or other things used in
 24 connection with the violation of this code constituting such
 25 nuisance. No bond shall be required in instituting such

1 proceedings. It shall not be necessary for the court to find
 2 the property involved was being unlawfully used at the time
 3 of the hearing, but on finding that the material allegations
 4 of the petition are true, the court shall order that no
 5 ~~liquor--or--beer~~ alcoholic beverages shall be manufactured,
 6 sold, or bartered in such room, house, building, boat,
 7 vehicle, structure, or place or any part thereof. Upon
 8 judgment of the court ordering such nuisance to be abated,
 9 the court may order that the room, house, building,
 10 structure, boat, vehicle, or place shall not be occupied or
 11 used for 1 year thereafter. The court may, in its
 12 discretion, permit it to be occupied or used if the owner,
 13 lessee, tenant, or occupant thereof shall give bond with
 14 sufficient surety, to be approved by the court making the
 15 order, in the penal and liquidated sum of not less than \$500
 16 or more than \$1,000, payable to the state of Montana and
 17 conditioned that ~~liquor-or-beer~~ alcoholic beverages will not
 18 thereafter be manufactured, sold, or bartered therein or
 19 thereon and that he will pay all fines, costs, and damages
 20 that may be assessed for any violations of this code upon
 21 said property."

22 NEW SECTION. Section 40. Extension of authority. Any
 23 existing authority of the department of revenue to make
 24 rules on the subject of the provisions of this act is
 25 extended to the provisions of this act.

1 NEW SECTION. SECTION 41. COORDINATION. IF HOUSE BILL
 2 NO. 313, (LC 481), (LC 1194) OR ANY OTHER LEGISLATION
 3 ENACTED BY THE 50TH LEGISLATURE DELETES OR MODIFIES THE
 4 AUTHORITY OF THE DEPARTMENT OF REVENUE TO IMPORT AND SELL
 5 TABLE WINE, ANY AMENDMENT IN THIS ACT THAT ADDS THE PHRASE
 6 "AND TABLE WINE" AFTER THE WORD "LIQUOR" IS VOID TO THE
 7 EXTENT SUCH AMENDMENTS CONFLICT WITH THE SUBSTANTIVE POLICY
 8 REGARDING TABLE WINE CONTAINED IN SUCH OTHER ACT. THE CODE
 9 COMMISSIONER, IN CONSULTATION WITH THE AGENCY ADMINISTERING
 10 THE LIQUOR LAWS, SHALL DELETE SUCH VOID AMENDMENTS ENACTED
 11 IN THIS ACT FROM THE NEXT PUBLICATION OF THE MONTANA CODE
 12 ANNOTATED.

-End-

1 HOUSE BILL NO. 133

2 INTRODUCED BY M. WILLIAMS, BLAYLOCK, HARRINGTON,

3 MAZUREK, B. BROWN, HARP

4 BY REQUEST OF THE DEPARTMENT OF REVENUE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CONSISTENT
7 CERTAIN TERMS IN THE MONTANA ALCOHOLIC BEVERAGE CODE; AND
8 AMENDING SECTIONS 16-1-101, 16-1-104 THROUGH 16-1-106,
9 16-1-201, 16-1-204, 16-1-303, 16-1-405, 16-2-101, 16-2-103,
10 16-2-104, 16-2-106 THROUGH 16-2-108, 16-2-203, 16-2-302,
11 16-3-101, 16-3-105, 16-3-106, 16-3-310, 16-3-401, 16-4-106,
12 16-4-108, 16-4-201, 16-4-202, 16-4-208, 16-4-302, 16-4-401,
13 16-4-404, 16-4-405, 16-4-411, 16-4-501, 16-6-104, 16-6-301,
14 16-6-305, 16-6-306, 16-6-309, 16-6-312, AND 16-6-313, MCA."

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

17 Section 1. Section 16-1-101, MCA, is amended to read:

18 "16-1-101. Citation -- declaration of policy --
19 subject matters of regulation. (1) Chapters 1 through 6 of
20 this title may be cited as the "Montana Alcoholic Beverage
21 Code".

22 (2) It is hereby declared to be the policy of the
23 state of Montana to effectuate and ensure the entire control
24 of the manufacture, sale, and distribution of liquor
25 alcoholic beverages within the state of Montana, as that

THERE ARE NO CHANGES ON HB 133 AND DUE
TO LENGTH WILL NOT BE REPRINTED. PLEASE
REFER TO SECOND READING (YELLOW) OR
THIRD READING (BLUE) FOR COMPLETE TEXT.



REFERENCE BILL
HB-133