

HB 313 INTRODUCED BY PAVLOVICH
ABOLISH STATE LIQUOR STORES

1/20 INTRODUCED
1/20 REFERRED TO BUSINESS & LABOR
1/21 FISCAL NOTE REQUESTED
1/26 FISCAL NOTE RECEIVED
2/06 HEARING
2/14 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/19 2ND READING NOT PASSED 73 22

1 House BILL NO. 313
2 INTRODUCED BY Carlson

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH STATE LIQUOR
5 STORES; TO REVISE THE LAW RELATING TO SALES BY THE STATE
6 WAREHOUSE; TO CLARIFY TERMINOLOGY; AMENDING SECTIONS
7 2-17-101, 2-18-203, 2-18-303 THROUGH 2-18-305, 16-1-103,
8 16-1-105, 16-1-106, 16-1-202, 16-1-301 THROUGH 16-1-304,
9 16-1-401, 16-1-402, 16-1-404, 16-2-103, 16-2-108, 16-2-201,
10 16-2-203, 16-2-302, 16-2-303, 16-3-103, 16-3-106, 16-3-401,
11 16-4-201, 16-4-202, 16-4-204, 16-4-205, 16-4-207 THROUGH
12 16-4-209, 16-4-404, 16-4-501, 16-4-503, 16-6-107, 16-6-301,
13 AND 16-6-303, MCA; REPEALING SECTIONS 2-18-314, 16-2-101,
14 16-2-104 THROUGH 16-2-107, 16-2-301, AND 16-3-307, MCA; AND
15 PROVIDING EFFECTIVE DATES."

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

18 Section 1. Section 16-1-103, MCA, is amended to read:
19 "16-1-103. Policy as to retail sale of liquor. It is
20 the policy of the state that it is necessary to further
21 regulate and control the sale and distribution of alcoholic
22 beverages within the state and to ensure the entire control
23 of the sale of liquor in the department of revenue. It is
24 advisable and necessary, ~~in addition to the operation of the~~
25 ~~state-liquor-stores-now-provided-by-law,~~ that the department

1 be empowered and authorized to grant licenses to persons
2 qualified under this code to sell liquor purchased by them
3 at the state liquor-stores warehouse at ~~retail~~ the posted
4 price in accordance with this code and under rules
5 promulgated by the department and under its strict
6 supervision and control and to provide severe penalty for
7 the sale of liquor except by ~~and-in-state-liquor-stores--and~~
8 ~~by~~ persons licensed under this code. The restrictions,
9 regulations, and provisions contained in this code are
10 enacted by the legislature for the protection, health,
11 welfare, and safety of the people of the state."

12 Section 2. Section 16-1-105, MCA, is amended to read:
13 "16-1-105. Divisions of code. This code is divided
14 into six chapters. Chapter 1 relates to the authority of
15 the department of revenue to administer this code and the
16 powers and functions of the department. Chapter 2 relates to
17 the ~~establishment--of--state--stores--and--the--keeping--and~~
18 ~~selling--of--liquors~~ price of liquor and the sale of table
19 wine. Chapter 3 relates to the control of liquor, wine, and
20 beer. Chapter 4 relates to license administration. Chapter 5
21 relates to identification cards. Chapter 6 relates to
22 enforcement."

23 Section 3. Section 16-1-106, MCA, is amended to read:
24 "16-1-106. Definitions. As used in this code, the
25 following definitions apply:



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1 {1}--"Agency--agreement"--means--an--agreement--between--the
2 department--and--a--person--appointed--to--sell--liquor--as--a
3 commission-merchant--rather--than--as--an--employee.

4 {2}{1} "Alcohol" means ethyl alcohol, also called
5 ethanol, or the hydrated oxide of ethyl.

6 {3}{2} "Alcoholic beverage" means a compound produced
7 and sold for human consumption as a drink that contains more
8 than .5% of alcohol by volume.

9 {4}{3} "Beer" means a malt heverage containing not
10 more than 7% of alcohol by weight.

11 {5}{4} "Beer importer" means a person other than a
12 brewer who imports malt beverages.

13 {6}{5} "Brewer" means a person who produces malt
14 beverages.

15 {7}{6} "Department" means the department of revenue.

16 {8}{7} "Immediate family" means a spouse, dependent
17 children, or dependent parents.

18 {9}{8} "Import" means to transfer beer or table wine
19 from outside the state of Montana into the state of Montana.

20 {10}{9} "Industrial use" means a use described as
21 industrial use by the federal Alcohol Administration Act and
22 the federal rules and regulations of 27 CFR.

23 {11}{10} "Liquor" means an alcoholic beverage except
24 beer and table wine.

25 {12}{11} "Malt beverage" means an alcoholic beverage

1 made by the fermentation of an infusion or decoction, or a
2 combination of both, in potable brewing water, of malted
3 barley with or without hops or their parts or their products
4 and with or without other malted cereals and with or without
5 the addition of unmalted or prepared cereals, other
6 carbohydrates, or products prepared therefrom and with or
7 without other wholesome products suitable for human food
8 consumption.

9 {13}{12} "Package" means a container or receptacle used
10 for holding an alcoholic beverage.

11 {14}{13} "Posted price" means the retail wholesale
12 price of paid by licensees for liquor and wine purchased
13 from the state warehouse by licensees. The term includes the
14 price as fixed and determined by the department and in
15 addition thereto an-excise-and--license--tax--as any taxes
16 provided in this code. The term includes shipping costs, but
17 only when an item is shipped.

18 {15}{14} "Proof gallon" means a U.S. gallon of liquor
19 at 60 degrees on the Fahrenheit scale that contains 50% of
20 alcohol by volume.

21 {16}{15} "Public place" means a place, building, or
22 conveyance to which the public has or may be permitted to
23 have access and any place of public resort.

24 {16} "Retail all-beverages license" includes a tavern,
25 resort, or public airport retail all-beverages license.

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

3 ~~(18) "State liquor facility" means a facility owned or~~
4 ~~under control of the department for the purpose of~~
5 ~~receiving, storing, transporting, or selling alcoholic~~
6 ~~beverages.~~

7 ~~(19) "State liquor store" means a retail store operated~~
8 ~~by the department in accordance with this code for the~~
9 ~~purpose of selling liquor.~~

10 (18) "State warehouse" means the state warehouse
11 operated by the department and includes branches of the
12 state warehouse.

13 ~~(20)(19)~~ "Storage depot" means a building or structure
14 owned or operated by a brewer at any point in the state of
15 Montana off and away from the premises of a brewery, and
16 which structure is equipped with refrigeration or cooling
17 apparatus for the storage of beer and from which a brewer
18 may sell or distribute beer as permitted by this code.

19 ~~(21)(20)~~ "Subwarehouse" means a building or structure
20 owned or operated by a licensed beer wholesaler or table
21 wine distributor, located at a site in Montana other than
22 the site of such beer wholesaler's or table wine
23 distributor's warehouse or principal place of business, and
24 used for the receiving, storage, and distribution of beer or
25 table wine as permitted by this code.

1 ~~(22)(21)~~ "Table wine" means wine as defined below which
2 contains not more than 16% alcohol by volume.

3 ~~(23)(22)~~ "Warehouse" means a building or structure
4 located in Montana owned or operated by a licensed beer
5 wholesaler or table wine distributor for the receiving,
6 storage, and distribution of beer or table wine as permitted
7 by this code.

8 ~~(24)(23)~~ "Wine" means an alcoholic beverage made from
9 or containing the normal alcoholic fermentation of the juice
10 of sound, ripe fruit or other agricultural products without
11 addition or abstraction, except as may occur in the usual
12 cellar treatment of clarifying and aging, and that contains
13 more than 0.5% but not more than 24% of alcohol by volume.
14 Wine may be ameliorated to correct natural deficiencies,
15 sweetened, and fortified in accordance with applicable
16 federal regulations and the customs and practices of the
17 industry. Other alcoholic beverages not defined as above
18 but made in the manner of wine and labeled and sold as wine
19 in accordance with federal regulations are also wine."

20 Section 4. Section 16-1-202, MCA, is amended to read:
21 "16-1-202. Preparations not subject to code. (1)
22 Subject to the provisions of this section, nothing in this
23 code shall, by reason only that such preparation contains
24 alcohol, prevent the manufacture, sale, purchase, or
25 consumption of any:

1 (a) extract, essence, or tincture or other preparation
2 containing alcohol which is prepared according to a formula
3 of the United States Pharmacopoeia or according to a formula
4 approved of by the department; or

5 (b) proprietary or patent medicine prepared according
6 to a formula approved of by the department.

7 (2) The department, if of opinion that any such
8 proprietary or patent medicine, extract, essence, tincture,
9 or preparation which contains alcohol or any other
10 preparation of a solid, semisolid, or liquid nature
11 containing alcohol which, or any extract from which, can be
12 used as a beverage or as the ingredient of any beverage, may
13 prohibit the sale thereof by retail within the state or the
14 possession of the same for sale by retail within the state,
15 except by ~~a state liquor store or by~~ persons duly licensed
16 by the department to keep and sell the same by at retail in
17 accordance with this code and the regulations made
18 thereunder rules adopted by the department.

19 (3) The department shall notify the manufacturer or
20 vendor of such proprietary or patent medicine, extract,
21 essence, tincture, or preparation of the prohibition."

22 Section 5. Section 16-1-301, MCA, is amended to read:

23 "16-1-301. Administration of code. The department
24 shall have the powers and duties to administer the Montana
25 Alcoholic Beverage Code, ~~including the general control,~~

1 ~~management and supervision of all state liquor stores."~~

2 Section 6. Section 16-1-302, MCA, is amended to read:

3 "16-1-302. Functions, powers, and duties of
4 department. (1) The department shall have the following
5 functions, duties, and powers:

6 ~~(1)~~(a) to buy, import, have in its possession for
7 sale, and sell liquors to licensees through the state
8 warehouse liquor and table wine in the manner set forth in
9 this code;

10 ~~(2)~~(b) to control the possession, sale, and delivery
11 of liquors liquor in accordance with the provisions of this
12 code;

13 ~~(3) to determine the municipalities within which state~~
14 ~~liquor stores shall be established throughout the state and~~
15 ~~the situation of the stores within every such municipality;~~

16 ~~(4)~~(c) to buy or lease, furnish, and equip any one
17 building or and necessary land required for the operation of
18 the state warehouse under this code;

19 ~~(5) to buy or lease all plants and equipment it may~~
20 ~~consider necessary and useful in carrying into effect the~~
21 ~~objects and purposes of this code;~~

22 ~~(6)~~(d) to employ store managers a state warehouse
23 manager and branch managers and also every officer,
24 investigator, clerk, or other employee required for the
25 operation or carrying out of this code and to dismiss the

1 same, fix their salaries or remuneration, assign them their
2 title, define their respective duties and powers, and to
3 engage the service of experts and persons engaged in the
4 practice of a profession, if deemed expedient;

5 ~~(7)(e)~~ to determine the nature, form, and capacity of
6 all packages to be used for containing liquor kept or sold
7 under this code;

8 ~~(8)(f)~~ to grant and issue licenses under and in
9 pursuance to this code; and

10 ~~(9)(g)~~ without in any way limiting or being limited by
11 the foregoing, to do all such things as are deemed necessary
12 or advisable by the department for the purpose of carrying
13 into effect the provisions of this code or the rules made
14 thereunder of the department.

15 (2) The department may operate only one state
16 warehouse under this code. However, it may buy or lease,
17 furnish, and equip buildings and necessary land for branches
18 of the state warehouse."

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

20 "16-1-303. Department rules. (1) The department may
21 make such rules not inconsistent with this code as to the
22 department seem necessary for carrying out the provisions of
23 this code and for the efficient administration thereof.

24 (2) Without thereby limiting the generality of the
25 provisions contained in subsection (1) hereof, it is

1 declared that the power of the department to make rules in
2 the manner set out in that subsection shall extend to and
3 include the following:

4 (a) regulating the equipment and management of the
5 state stores-and-warehouses-in-which-liquor-or-table-wine-is
6 kept-or-sold warehouse and prescribing the books and records
7 to be kept therein;

8 (b) prescribing the duties of the employees of the
9 liquor division and regulating their conduct while in the
10 discharge of their duties;

11 ~~(c)--governing--the--purchase---of---liquor---and---the~~
12 ~~furnishing--of-liquor-to-state-stores-established-under-this~~
13 ~~code;~~

14 ~~(d)--determining-the-classes,-varieties,-and-brands--of~~
15 ~~liquor--and--table--wine--to--be--kept-for-sale-at-any-state~~
16 ~~store;~~

17 ~~(e)--prescribing,-subject--to--this--code,-the--hours~~
18 ~~during--which-state-liquor-stores-shall-be-kept-open-for-the~~
19 ~~sale-of-alcoholic-beverages;~~

20 ~~(f)(c)~~ providing for the issuing and distributing of
21 price lists showing the posted price to be paid by
22 purchasers licensees for each class, variety, or brand of
23 liquor and table wine kept--for--sale--under--this--code
24 purchased from the state warehouse;

25 ~~(g)(d)~~ prescribing forms to be used for the purpose of

1 this code or of the rules made thereunder and the terms and
2 conditions in permits and licenses issued and granted under
3 this code;

4 ~~(h)~~(e) prescribing the form of records of purchase of
5 liquor and ~~table~~ wine and the reports to be made thereon to
6 the division and providing for inspection of the records so
7 kept;

8 ~~(i)~~(f) prescribing the manner of giving and serving
9 notices required by this code or the rules thereunder;

10 ~~(j)~~(g) prescribing the fees payable in respect of
11 permits and licenses issued under this code for which no
12 fees are prescribed in this code and prescribing the fees
13 for anything done or permitted to be done under the rules
14 made thereunder;

15 ~~(k)~~(h) prescribing, subject to the provisions of this
16 code, the conditions and qualifications necessary for the
17 obtaining of a liquor or beer license and the books and
18 records to be kept and the returns to be made by the
19 licensees and providing for the inspection of such licensed
20 premises;

21 ~~(l)~~(i) specifying and describing the place and the
22 manner in which liquor or beer may be lawfully kept or
23 stored;

24 ~~(m)~~(j) specifying and regulating the time and periods
25 when and the manner, methods, and means by which vendors and

1 brewers shall deliver liquor under this code and the time
2 and periods when and the manner, methods, and means by which
3 liquor, under this code, may be lawfully conveyed or
4 carried;

5 ~~(n)~~(k) governing the conduct, management, and
6 equipment of any premises licensed to sell liquor or beer
7 under this code; and

8 ~~(o)~~(l) providing for the imposition and collection of
9 taxes and making rules respecting returns, accounting, and
10 payment of the taxes to the department.

11 (3) Whenever it is provided in this code that any act,
12 matter, or thing may be done if permitted or authorized by
13 the rules or may be done in accordance with the rules or as
14 provided by the rules, the department, subject to the
15 restrictions set out in subsection (1) ~~hereof~~, shall have
16 the power to make rules respecting such act, matter, or
17 thing."

18 Section 8. Section 16-1-304, MCA, is amended to read:

19 "16-1-304. Prohibited acts within division. (1) No
20 officer or employee of the liquor division, ~~including those~~
21 ~~engaged in the sale of liquor at the various state liquor or~~
22 ~~table wine stores,~~ may be directly or indirectly interested
23 or engaged in any other business or undertaking dealing in
24 liquor or ~~table~~ wine, whether as owner, part owner, partner,
25 member of syndicate, shareholder, agent, or employee and

1 whether for his own benefit or in a fiduciary capacity for
2 some other person.

3 (2) No member or employee of the division or any
4 employee of the state may solicit or receive directly or
5 indirectly any commission, remuneration, or gift whatsoever
6 from any person or corporation having sold, selling, or
7 offering liquor or ~~table~~ wine for sale to the state or
8 division pursuant to this code.

9 (3) No person selling or offering for sale to or
10 purchasing liquor or ~~table~~ wine from the state liquor
11 division may either directly or indirectly offer to pay any
12 commission, profit, or remuneration or make any gift to any
13 member or employee of the division, to any employee of the
14 state, or to anyone on behalf of such member or employee.

15 (4) The prohibition contained in subsection (3) of
16 this section does not prohibit the division from receiving
17 samples of liquor or ~~table~~ wine for the purpose of chemical
18 testing, subject to the following limitations:

19 (a) Each manufacturer, distiller, compounder,
20 rectifier, importer, or wholesale distributor or any other
21 person, firm, or corporation proposing to sell any liquor or
22 ~~table~~ wine to the Montana liquor division shall submit,
23 without cost to the division prior to the original purchase,
24 an analysis of each brand and may submit a representative
25 sample not exceeding 25 fluid ounces of such merchandise to

1 the division.

2 (b) When a brand of liquor or ~~table~~ wine has been
3 accepted for testing by the division, the division shall
4 forward the sample, unopened and in its entirety, to a
5 qualified chemical laboratory for analysis.

6 (c) The division shall maintain written records of all
7 samples received. The records shall show the brand name,
8 amount and from whom received, date received, the laboratory
9 or chemist to whom forwarded, the division's action on the
10 brand, and the person to whom delivered or other final
11 disposition of the sample.

12 (5) No liquor, ~~or wine, or other alcoholic beverage~~
13 may be withdrawn from the regular state warehouse inventory
14 ~~or from the state liquor stores of the Montana liquor~~
15 ~~division~~ for any purpose other than sale by the state to
16 licensees at the prevailing ~~state-retail-prices~~ posted price
17 or for destroying damaged or defective merchandise. The
18 division shall maintain a written record including the type,
19 brand, container size, number of bottles or other units,
20 signatures of witnesses, and method of destruction or other
21 disposition of damaged or defective state warehouse ~~or state~~
22 ~~store~~ merchandise."

23 Section 9. Section 16-1-401, MCA, is amended to read:
24 "16-1-401. Liquor excise tax. (1) The department is
25 hereby authorized and directed to charge, receive, and

1 collect at the time of the sale and delivery of any liquor
2 as authorized under any provision of the laws of the state
3 of Montana an excise tax at the rate of:

4 (a) 16% of the ~~retail~~ wholesale selling price on all
5 liquor sold and delivered to licensees in the state by a
6 company that manufactured, distilled, rectified, bottled, or
7 processed, and sold more than 200,000 proof gallons of
8 liquor nationwide in the calendar year preceding imposition
9 of the tax pursuant to this section;

10 (b) 13.8% of the ~~retail~~ wholesale selling price on all
11 liquor sold and delivered to licensees in the state by a
12 company that manufactured, distilled, rectified, bottled, or
13 processed, and sold not more than 200,000 proof gallons of
14 liquor nationwide in the calendar year preceding imposition
15 of the tax pursuant to this section.

16 (2) The department shall retain the amount of ~~such the~~
17 excise tax received in a separate account and shall deposit
18 with the state treasurer, to the credit of the general fund,
19 ~~such the~~ sums collected and received not later than the 10th
20 day of each and every month."

21 Section 10. Section 16-1-402, MCA, is amended to read:

22 "16-1-402. Payment of excise tax by carriers. (1)
23 Every airline or railroad operating in the state of Montana
24 and selling liquor purchased outside this state for
25 consumption within this state shall pay to the department

1 the excise taxes and state markup which would be applicable
2 to such liquor if purchased from the state ~~liquor-store~~
3 warehouse.

4 (2) The amount of such excise taxes and state markup
5 payable shall be determined by multiplying the following
6 factors:

7 (a) the average liquor used per departure;
8 (b) the number of departures from Montana on which
9 liquor is served;

10 (c) the ratio of Montana revenue passenger miles to
11 system revenue passenger miles; and

12 (d) the applicable excise tax and state markup rates.

13 (3) From said product, the carrier shall subtract the
14 amount of excise taxes and state markup on purchases of
15 liquor made within this state."

16 Section 11. Section 16-1-404, MCA, is amended to read:

17 "16-1-404. License tax on liquor -- amount --
18 distribution of proceeds. (1) The department is hereby
19 authorized and directed to charge, receive, and collect at
20 the time of sale and delivery of any liquor under any
21 provisions of the laws of the state of Montana a license tax
22 of:

23 (a) 10% of the ~~retail~~ wholesale selling price on all
24 liquor sold and delivered to licensees in the state by a
25 company that manufactured, distilled, rectified, bottled, or

1 processed, and sold more than 200,000 proof gallons of
2 liquor nationwide in the calendar year preceding imposition
3 of the tax pursuant to this section;

4 (b) 8.6% of the retail wholesale selling price on all
5 liquor sold and delivered to licensees in the state by a
6 company that manufactured, distilled, rectified, bottled, or
7 processed, and sold not more than 200,000 proof gallons of
8 liquor nationwide in the calendar year preceding imposition
9 of the tax pursuant to this section.

10 (2) The license tax shall be charged and collected on
11 all liquor brought into the state and taxed by the
12 department. The retail wholesale selling price shall be
13 computed by adding to the cost of said liquor the state
14 markup as designated by the department. The license tax
15 shall be figured in the same manner as the state excise tax
16 and shall be in addition to said state excise tax. The
17 department shall retain in a separate account the amount of
18 the license tax so received. Thirty percent of these
19 revenues are statutorily appropriated, as provided in
20 17-7-502, to the department and shall be allocated to the
21 counties according to the amount of liquor purchased in each
22 county to be distributed to the incorporated cities and
23 towns, as provided in subsection (3). Four and one-half
24 percent of these revenues are statutorily appropriated, as
25 provided in 17-7-502, and shall be allocated to the counties

1 according to the amount of liquor purchased in each county,
2 and this money may be used for county purposes. The
3 remaining revenues shall be deposited in the state special
4 revenue fund to the credit of the department of institutions
5 for the treatment, rehabilitation, and prevention of
6 alcoholism. Provided, however, in the case of purchases of
7 liquor by a retail liquor licensee for use in his business,
8 the department shall make such regulations as are necessary
9 to apportion that proportion of license tax so generated to
10 the county where the licensed establishment is located, for
11 use as provided in 16-1-405. That proportion of the license
12 tax is statutorily appropriated, as provided in 17-7-502, to
13 the department, which shall pay quarterly to each county
14 treasurer the proportion of the license tax due each county
15 to be allocated to the incorporated cities and towns of the
16 county.

17 (3) The license tax proceeds allocated to the county
18 under subsection (2) for use by cities and towns shall be
19 distributed by the county treasurer to the incorporated
20 cities and towns within 30 days of receipt from the
21 department. The distribution of funds to the cities and
22 towns shall be based on the proportion that the gross sale
23 of liquor in each city or town is to the gross sale of
24 liquor in all of the cities and towns of the county.

25 (4) The license tax proceeds that are allocated to the

1 department of institutions for the treatment,
2 rehabilitation, and prevention of alcoholism shall be
3 credited quarterly to the department of institutions. The
4 legislature may appropriate a portion of the license tax
5 proceeds to support alcohol programs. The remainder shall be
6 distributed as provided in 53-24-206."

7 Section 12. Section 16-2-103, MCA, is amended to read:

8 "16-2-103. Duplicate invoices of sales required. (1)
9 The state ~~liquor-store~~ warehouse shall, upon each sale of
10 liquor to any licensee, issue a duplicate invoice of the
11 liquor purchased, as provided by the department, a copy of
12 which shall be delivered to the licensee and one copy
13 retained at ~~such-store~~ the warehouse.

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

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

24 Section 13. Section 16-2-108, MCA, is amended to read:

25 "16-2-108. Disposition of money received. All moneys

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

17 Section 14. Section 16-2-201, MCA, is amended to read:

18 "16-2-201. ~~Reduction Price discount~~ for quantity sales
19 of liquor. ~~Reduction A reduction of 5% 10%~~ of the ~~retail~~
20 posted price of liquor sold ~~at by~~ the state ~~liquor-store~~
21 warehouse shall be made by the department for sales of
22 liquor to any person purchasing liquor in unbroken case
23 lots. Two or more persons, none of whom desire or need to
24 purchase a whole case, may purchase a case together,
25 splitting the cost and contents. No other ~~reduction discount~~

1 shall be made by the department for quantity sales of
2 liquor."

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

4 "16-2-203. Department sales to licensees. The
5 department may sell through its stores warehouse to
6 licensees licensed under this code all kinds of liquor, wine
7 ~~containing more than 14% alcohol by volume~~, and cordials
8 kept in stock, at the posted price ~~thereof in the store in~~
9 ~~which the liquor is sold~~. All sales shall be upon a cash
10 basis. The licensee may have the liquor, wine, and cordials
11 shipped to him. The department shall pay shipping costs and
12 set the posted price at a level that will recover the total
13 cost of all shipments. The shipping cost portion of the
14 posted price must be deducted from the posted price when a
15 purchaser picks up alcoholic beverages at the warehouse. The
16 department may by rule require a minimum order that may not
17 exceed \$500 for a shipment."

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

19 "16-2-302. State distribution sales. The department
20 may import and distribute sell to licensees one or more
21 named table wines ~~to one or more designated state liquor~~
22 ~~stores~~, in the same manner as if the table wine contained
23 more than ~~14%~~ 16% alcohol by volume."

24 Section 17. Section 16-2-303, MCA, is amended to read:

25 "16-2-303. Department prohibited from engaging in

1 unfair competition. (1) The department, in engaging in the
2 retail wholesale sale of table wine to licensees, is subject
3 to the provisions of Title 30, chapter 14, parts 1 and 2,
4 except those provisions relating to enforcement and
5 penalties.

6 (2) A person aggrieved by a violation of this section
7 by the department may maintain an action to enjoin the
8 alleged violation and for the recovery of damages in the
9 district court of the district where the conduct complained
10 of occurred or where the department's principal office is
11 located."

12 Section 18. Section 16-3-103, MCA, is amended to read:

13 "16-3-103. Unlawful sales solicitation or advertising
14 -- exceptions. (1) No person within the state shall:

15 (a) canvass for, receive, take, or solicit orders for
16 the purchase or sale of any liquor or act as agent or
17 intermediary for the sale or purchase of any liquor or hold
18 himself out as such agent or intermediary unless permitted
19 to do so under rules that shall be promulgated by the
20 department to govern such activities;

21 (b) canvass for or solicit orders for the purchase or
22 sale of any beer or malt liquor except in the case of beer
23 proposed to be sold to beer licensees duly authorized to
24 sell beer under the provisions of this code;

25 (c) exhibit, publish, or display or permit to be

1 exhibited, published, or displayed any form of advertisement
 2 or any other announcement, publication, or price list of or
 3 concerning liquor or where or from whom the same may be had,
 4 obtained, or purchased unless permitted to do so by the
 5 rules of the department and then only in accordance with
 6 such rules.

7 (2) This section shall not apply to:

8 (a) the department ~~or~~ or any act of the department ~~any~~
 9 ~~state-liquor-store~~; or

10 (b) the receipt or transmission of a telegram or
 11 letter by any telegraph agent or operator or post-office
 12 employee in the ordinary course of his employment as such
 13 agent, operator, or employee."

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

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

1 place to which the same may be lawfully delivered under this
 2 code and the rules made thereunder.

3 (2) No common carrier or any other person shall open,
 4 break, or allow to be opened or broken any package or vessel
 5 containing liquor or drink or use or allow to be drunk or
 6 used any liquor therefrom while being carried or conveyed."

7 Section 20. Section 16-3-401, MCA, is amended to read:

8 "16-3-401. Public policy. The public policy of the
 9 state of Montana is to maintain a system for the importation
 10 and sale of wine by the state through the state liquor
 11 facilities warehouse and provide for, regulate, and control
 12 the acquisition, importation, and distribution of table wine
 13 containing not more than ~~14%~~ 16% alcohol by volume by
 14 licensed table wine distributors ~~and-the-state~~."

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

16 "16-4-201. ~~All-beverages~~ Retail tavern all-beverages
 17 license quota. (1) Except as otherwise provided by law, a
 18 license to sell liquor, beer, and wine at retail for both
 19 on-premises and off-premises consumption (as a retail tavern
 20 all-beverages license) in accordance with the provisions of
 21 this code and the rules of the department may be issued to
 22 any person who is approved by the department as a fit and
 23 proper person to sell such beverages, except that the number
 24 of retail tavern all-beverages licenses that the department
 25 may issue for premises situated within incorporated cities

1 and incorporated towns and within a distance of 5 miles from
 2 the corporate limits of such cities and towns shall be
 3 determined on the basis of population prescribed in 16-4-502
 4 as follows:

5 (a) in incorporated towns of 500 inhabitants or less
 6 and within a distance of 5 miles from the corporate limits
 7 of such towns, not more than two retail tavern all-beverages
 8 licenses;

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

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

21 (2) The number of the inhabitants in such cities and
 22 towns, exclusive of the number of inhabitants residing
 23 within a distance of 5 miles from the corporate limits
 24 thereof, shall govern the number of retail tavern
 25 all-beverages licenses that may be issued for use within

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

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

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

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

5 (5) The number of retail tavern all-beverages licenses
 6 that 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 22. Section 16-4-202, MCA, is amended to read:

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

1 resort all-beverages licenses in a resort area.

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

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

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

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

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

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

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

1 (8) Within 30 days of the hearing, the department
 2 shall accept or reject the plat. If rejected the department
 3 must state its reasons and set forth the conditions, if any,
 4 under which the plat will be accepted, and the decision of
 5 the department may be reviewed pursuant to the review
 6 procedure set forth in 16-4-406.

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

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

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

20 (c) If an applicant otherwise qualifies for a retail
 21 resort all-beverages license but the premises to be licensed
 22 are still in construction or are otherwise incomplete at the
 23 time of such application, the department shall issue a
 24 letter stating that the license will be issued at such time
 25 as the qualifications for a licensed premises have been met,

1 setting forth such time limitations and requirements as the
2 department may establish.

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

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

16 Section 23. Section 16-4-204, MCA, is amended to read:

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

23 (i) the total number of retail tavern all-beverages
24 licenses in the original quota area exceeded the quota for
25 that area by at least 25% in the most recent census

1 prescribed in 16-4-502;

2 (ii) the total number of retail tavern all-beverages
3 licenses in the quota area to which the license would be
4 transferred, exclusive of those issued under 16-4-209(1)(a)
5 and (1)(b), did not exceed that area's quota in the most
6 recent census prescribed in 16-4-502:

7 (A) by more than 33%; or

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

11 (iii) the department finds, after a public hearing,
12 that the public convenience and necessity would be served by
13 such a transfer.

14 (b) A license within an incorporated quota area may be
15 transferred to a new ownership and to a new unincorporated
16 location within the same county on application to and with
17 consent of the department when the quota of the retail
18 tavern all-beverages licenses in the original quota area,
19 exclusive of those issued under 16-4-209(1)(a) and (1)(b),
20 exceeds the quota for that area by at least 25% in the most
21 recent census and will not fall below that level because of
22 the transfer.

23 (c) For 5 years after the transfer of a license
24 between quota areas under subsection (1)(a), the license may
25 not be mortgaged or pledged as security and may not be

1 transferred to another person except for a transfer by
2 inheritance upon the death of the licensee.

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

6 (e) A license issued under 16-4-209(1)(a) may not be
7 transferred to a location outside the quota area and the
8 exterior boundaries of the Montana Indian reservation for
9 which it was originally issued.

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

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

21 (c) A written application for each event for which the
22 licensee intends to provide catering services, the written
23 approval of the catering application by the sponsor of the
24 special event, and a fee of \$35 must be filed with the
25 department at least 3 days prior to the event and shall

1 describe the location of the premises where the event is to
2 be held, the nature of the event, and the period during
3 which the event is to be held. An A retail tavern
4 all-beverages licensee who holds an endorsement granted
5 under this subsection (2) may not receive approval to cater
6 an event of which he is the sponsor. The catered event must
7 be within 100 miles of the licensee's regular place of
8 business. If obtained, the licensee shall display in a
9 prominent place on those premises, the written approval from
10 the department for each event which is catered pursuant to
11 this subsection.

12 (d) The licensee shall file with each application for
13 an event to be catered a written statement of approval of
14 the premises where the event is to be held issued by the
15 department of health and environmental sciences and the
16 local law enforcement agency that has jurisdiction over the
17 premises where the event is to be held.

18 (e) The sale of alcoholic beverages pursuant to a
19 catering endorsement is subject to the provisions of
20 16-6-103.

21 (f) The sale of alcoholic beverages pursuant to a
22 catering endorsement is subject to the provisions of
23 16-3-306, unless entities named in 16-3-306 give their
24 written approval."

25 Section 24. Section 16-4-205, MCA, is amended to read:

1 "16-4-205. Limit one license to person -- business in
 2 name of licensee. No person shall be issued more than one
 3 retail all-beverages license in any year, with the exception
 4 of a secured party issued an additional retail all-beverages
 5 license as the result of a default. Such a secured party
 6 shall transfer ownership of any additional retail
 7 all-beverages license within 180 days of issuance. No
 8 business may be carried on under any license issued under
 9 this chapter except in the name of the licensee."

10 Section 25. Section 16-4-207, MCA, is amended to read:

11 "16-4-207. Notice of application for retail
 12 all-beverages license -- publication -- protest. (1) When an
 13 application has been filed with the department for a retail
 14 all-beverages license ~~to sell alcoholic beverages at retail~~
 15 or to transfer such license, the department shall promptly
 16 publish in a newspaper of general circulation in the city,
 17 town, or county from which the application comes a notice
 18 that such applicant has made application for such license
 19 and that protests against the issuance of a license to the
 20 applicant may be mailed to a named administrator in the
 21 department of revenue within 10 days after the final notice
 22 is published. Notice of application for a new license shall
 23 be published once a week for 4 consecutive weeks. Notice of
 24 application for transfer of a license shall be published
 25 once a week for 2 consecutive weeks. Notice may be

1 substantially in the following form:

2 NOTICE OF APPLICATION FOR RETAIL

3 ALL-BEVERAGES LICENSE

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

12 Dated

Signed

13 ADMINISTRATOR

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

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

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

24 "16-4-208. Airport Retail public airport all-beverages
 25 license. (1) The department of revenue shall issue one

1 all-beverages license, to be known as a retail public
 2 airport all-beverages license, for use at each publicly
 3 owned airport served by scheduled airlines and enplaning and
 4 deplaning a minimum total of 20,000 passengers annually
 5 when:

6 (a) application is made;

7 (b) upon finding that this license is justified by
 8 public convenience and necessity, including the convenience
 9 and necessity of the public traveling by scheduled airlines;
 10 and

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

12 (2) Application shall be made by the agency owning and
 13 operating the airport. The agency owning and operating the
 14 airport may lease the retail public airport all-beverages
 15 license to an individual or entity approved by the
 16 department.

17 (3) A retail public airport all-beverages license and
 18 all retail liquor sales thereunder shall be subject to all
 19 statutes and rules governing retail all-beverages licenses.

20 (4) The department of revenue shall issue a retail
 21 public airport all-beverages license to a qualified
 22 applicant regardless of the number of retail all-beverages
 23 licenses already issued within the retail tavern
 24 all-beverages license quota area in which the airport is
 25 situated."

1 Section 27. Section 16-4-209, MCA, is amended to read:

2 "16-4-209. All-beverages Retail tavern all-beverages
 3 license for tribal alcoholic beverages licensee or enlisted
 4 men's, noncommissioned officers', or officers' club. (1)
 5 Upon application and qualification, the department shall
 6 issue an a retail tavern all-beverages license to:

7 (a) a tribal alcoholic beverages licensee who operates
 8 such business within the exterior boundaries of a Montana
 9 Indian reservation under a tribal license issued prior to
 10 January 1, 1985; and

11 (b) an enlisted men's, noncommissioned officers', or
 12 officers' club located on a state or federal military
 13 reservation in Montana on May 13, 1985.

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

17 (3) Upon application and approval by the department, a
 18 license issued under subsection (1)(a) may be transferred to
 19 another qualified applicant, but such license may only be
 20 transferred to a location within the quota area and the
 21 exterior boundaries of the Montana Indian reservation for
 22 which the license was originally issued.

23 (4) A license issued under this section is subject to
 24 all statutes and rules governing retail all-beverages
 25 licenses."

1 Section 28. Section 16-4-404, MCA, is amended to read:

2 "16-4-404. Protest period -- contents of license --
3 posting -- privilege -- transfer. (1) No retail
4 all-beverages license may be issued until on or after the
5 date set in the notice for hearing protests.

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

22 (3) Any license issued under the provisions of this
23 code shall be considered a privilege personal to the
24 licensee named in the license and shall be good until the
25 expiration of the license unless sooner revoked or

1 suspended.

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

9 (5) In the event of a major loss or damage to licensed
10 premises by unforeseen natural causes or in case of
11 expiration of lease of the licensed premises or in the event
12 of eviction or increase of rent by the landlord (in case of
13 rented licensed premises) or in case of proposed removal of
14 license to premises as substantially suited for the retail
15 liquor business as the premises vacated, the licensee may
16 apply to the department for a transfer of the license to
17 different premises. The department may in its discretion
18 permit a transfer in such cases if it appears to the
19 department that such a transfer is required to do justice to
20 the licensee applying for the transfer. The department
21 shall in no event nor for any cause permit a transfer to
22 different premises where the sanitary, health, and service
23 facilities are less satisfactory than such facilities which
24 exist or had existed at the premises from which the transfer
25 is proposed to be made.

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

16 (7) Except as provided in subsections (2) through (6)
 17 and 16-4-204, no license shall be transferred or sold nor
 18 shall it be used for any place of business not described in
 19 the license; provided, however, that such license may be
 20 subject to mortgage and other valid liens, in which event
 21 the name of the mortgagee, upon application to and approval
 22 of the department, must be endorsed on the license."

23 Section 29. Section 16-4-501, MCA, is amended to read:

24 "16-4-501. License and permit fees. (1) Each beer
 25 licensee licensed to sell either beer or table wine only, or

1 both beer and table wine, under the provisions of this code,
 2 shall pay an annual license fee as follows:

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

6 (b) each beer wholesaler, \$400; each table wine
 7 distributor, \$400; each subwarehouse, \$400;

8 (c) each beer retailer, \$200; with a wine license
 9 amendment, an additional \$200;

10 (d) for a license to sell beer at retail for
 11 off-premises consumption only, the same as a retail beer
 12 license; for a license to sell table wine at retail for
 13 off-premises consumption only, either alone or in
 14 conjunction with beer, \$200;

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

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

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

24 (4) Passenger carrier licenses shall be issued upon
 25 payment by the applicant of an annual license fee in the sum

1 of \$300.

2 (5) The annual license fee for a license to sell wine
3 on the premises, when issued as an amendment to a beer-only
4 license, is \$200.

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

8 (7) Each licensee licensed under the quotas of
9 16-4-201 shall pay an annual license fee as follows:

10 (a) except as hereinafter provided, for each license
11 outside of incorporated cities and incorporated towns or in
12 incorporated cities and incorporated towns with a population
13 of less than 2,000, \$250 for a unit of a nationally
14 chartered veterans' organization and \$400 for all other
15 licensees;

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

23 (c) except as hereinafter provided, for each license
24 in incorporated cities with a population of more than 5,000
25 and less than 10,000 or within a distance of 5 miles

1 thereof, measured in a straight line from the nearest
2 entrance of the premises to be licensed to the nearest
3 boundary of such city, \$500 for a unit of a nationally
4 chartered veterans' organization and \$650 for all other
5 licensees;

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

13 (e) the distance of 5 miles from the corporate limits
14 of any incorporated cities and incorporated towns is
15 measured in a straight line from the nearest entrance of the
16 premises to be licensed to the nearest boundary of such city
17 or town; and where the premises of the applicant to be
18 licensed are situated within 5 miles of the corporate
19 boundaries of two or more incorporated cities or
20 incorporated towns of different populations, the license fee
21 chargeable by the larger incorporated city or incorporated
22 town applies and shall be paid by the applicant. When the
23 premises of the applicant to be licensed are situated within
24 an incorporated town or incorporated city and any portion of
25 the incorporated town or incorporated city is without a

1 5-mile limit, the license fee chargeable by the smaller
2 incorporated town or incorporated city applies and shall be
3 paid by the applicant.

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

14 (8) The fee for one ~~all-beverage~~ retail public airport
15 all-beverages license ~~to-a-public--airport~~ shall be \$800.
16 This license is nontransferable.

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

20 (10) In addition to other license fees, the department
21 of revenue may require a licensee to pay a late fee of
22 33 1/3% of any license fee delinquent on July 1 of the
23 renewal year, 66 2/3% of any license fee delinquent on
24 August 1 of the renewal year, and 100% of any license fee
25 delinquent on September 1 of the renewal year."

1 Section 30. Section 16-4-503, MCA, is amended to read:

2 "16-4-503. City and county licenses -- fees. The city
3 council of any incorporated town or city or the county
4 commissioners outside of any incorporated town or city may
5 provide for the issuance of licenses to persons to whom a
6 retail license has been issued under the provisions of this
7 code and may fix license fees, not to exceed a sum equal to
8 five-eighths of the fee for ~~an a~~ a retail all-beverages
9 license or 100% of the fee for a beer or beer-and-wine
10 license collected by the department from such licensee under
11 this code."

12 Section 31. Section 16-6-107, MCA, is amended to read:

13 "16-6-107. Disposal of forfeited alcoholic beverages
14 -- report. (1) In every case in which a court or hearing
15 examiner makes any order for the forfeiture of alcoholic
16 beverages under any of the provisions of this code and in
17 every case in which any claimant to an alcoholic beverage
18 under the provisions of 16-6-105 or 16-6-106 fails to
19 establish his claim and right thereto, the alcoholic
20 beverage in question and the packages in which the alcoholic
21 beverage is kept shall be delivered to the department. The
22 department shall determine the market value of each
23 forfeited alcoholic beverage which is found to be suitable
24 for sale in the state ~~liquor-stores~~ warehouse and shall pay
25 the amount so determined to the state treasurer after

1 deducting therefrom the expenses necessarily incurred by the
 2 department for transporting the forfeited alcoholic beverage
 3 to the state ~~liquor--warehouses~~ warehouse. The alcoholic
 4 beverage suitable for sale shall be taken into stock by the
 5 department and sold under the provisions of this code. All
 6 alcoholic beverages found to be unsuitable for sale in the
 7 state ~~liquor--stores~~ warehouse shall be destroyed by the
 8 department.

9 (2) In every case in which an alcoholic beverage is
 10 seized by a peace officer, it shall be his duty to make or
 11 cause to be made to the department a report in writing of
 12 the particulars of such seizure."

13 Section 32. Section 16-6-301, MCA, is amended to read:

14 "16-6-301. Transfer, sale, and possession of alcoholic
 15 beverages -- when unlawful. (1) Except as provided by this
 16 code, no person shall, within the state, by himself, his
 17 clerk, servant, or agent, expose or keep for sale or,
 18 directly or indirectly or upon any pretense or upon any
 19 device, sell or offer to sell or, in consideration of the
 20 purchase or transfer of any property or for any other
 21 consideration or at the time of the transfer of any
 22 property, give to any other person any liquor.

23 (2) No person shall have or keep any liquor within the
 24 state which has not been purchased from the state of
 25 Montana. Nothing in this code shall prohibit any person

1 entering this state from any other state or from any foreign
 2 country from having in his possession not to exceed 3 wine
 3 gallons of alcoholic liquor or beer which liquor or beer
 4 shall have been purchased in another state or foreign
 5 country, but no person claiming to have so entered the state
 6 shall at any time have in his possession more than 3 wine
 7 gallons of intoxicating liquor which shall not have been
 8 purchased from a state ~~liquor--store~~ licensee. This
 9 subsection shall not apply to the department or to the
 10 keeping or having of liquor by brewers, distillers, and
 11 other persons duly licensed by the United States for the
 12 manufacture of such liquor or to the keeping or having of
 13 any proprietary or patent medicines or of any extracts,
 14 essences, tinctures, or preparations where such having and
 15 keeping is authorized by this code.

16 (3) Nothing contained in this section shall apply to
 17 the possession by a sheriff or his bailiff of liquor seized
 18 under execution or other judicial or extrajudicial process
 19 or to sales under executions or other judicial or
 20 extrajudicial process to the department or, in the case of
 21 beer, to a brewer, beer licensee, club licensee, or canteen
 22 licensee.

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

25 (a) attempt to purchase any alcoholic beverage;

1 (b) directly or indirectly or upon any pretense or
2 device, purchase any alcoholic beverage; or

3 (c) in consideration of the sale or transfer of any
4 property or for any other consideration or at the time of
5 the transfer of any property, take or accept from any other
6 person any alcoholic beverage."

7 Section 33. Section 16-6-303, MCA, is amended to read:

8 "16-6-303. Sale of liquor not purchased from state
9 store warehouse forbidden -- penalty. It is unlawful for any
10 licensee to sell or keep for sale or have on his premises
11 for any purpose whatever any liquor except that purchased
12 from the state ~~liquor--store~~ warehouse, and any licensee
13 found in possession of or selling and keeping for sale any
14 liquor which was not purchased from a the state liquor-store
15 warehouse shall, upon conviction, be punished by a fine of
16 not less than \$500 or more than \$1,500, by imprisonment for
17 not less than 3 months or more than 1 year, or by both such
18 fine and imprisonment. If the department is satisfied that
19 any such liquor was knowingly sold or kept for sale within
20 the licensed premises by the licensee or by his agents,
21 servants, or employees, the department shall immediately
22 revoke the license."

23 Section 34. Section 2-17-101, MCA, is amended to read:

24 "2-17-101. Allocation of space. (1) The department of
25 administration shall periodically survey the needs of state

1 agencies other than the university system and shall assign
2 space in state buildings to such agencies. No state agency
3 shall lease, rent, or purchase property for quarters without
4 prior approval of the department.

5 (2) (a) The location of the chambers for the house of
6 representatives shall be determined in the sole discretion
7 of the house of representatives. The location of the
8 chambers of the senate shall be determined in the sole
9 discretion of the senate.

10 (b) The department of administration, with the advice
11 of the capitol building and planning committee, shall
12 allocate other space for the use of the legislature,
13 including but not limited to space for committee rooms and
14 legislative offices.

15 (3) For state agencies located in a city other than
16 Helena, the department of administration shall consolidate
17 the offices of these agencies in a single, central location
18 within the city whenever such consolidation would result in
19 a cost savings to the state while permitting sufficient
20 space and facilities for the agencies. The department may
21 purchase, lease, or acquire, by exchange or otherwise, land
22 and buildings in the city to achieve consolidation. ~~State~~
23 ~~retail-liquor-stores-and-liquor-retail-agencies-are-exempted~~
24 ~~from-such-consolidation."~~

25 Section 35. Section 2-18-203, MCA, is amended to read:

1 "2-18-203. Review of positions -- change in
 2 classification. (1) The department shall continuously review
 3 all positions on a regular basis and adjust classifications
 4 to reflect significant changes in duties and
 5 responsibilities. In the event adjustments are to be made to
 6 the classification specifications or criteria utilized for
 7 allocating positions in the classification specifications
 8 affecting employees within a bargaining unit, the department
 9 shall consult with the representative of the bargaining unit
 10 prior to implementation of the adjustments, except for
 11 blue-collar, and teachers, ~~and liquor store clerks~~
 12 classification plans, which shall remain mandatory
 13 negotiable items under the Collective Bargaining Act.

14 (2) Employees and employee organizations will be given
 15 the opportunity to appeal the allocation or reallocation of
 16 a position to a class. The grade assigned to a class is not
 17 an appealable subject under 2-18-1011 through 2-18-1013.

18 (3) The period of time for which retroactive pay for a
 19 classification appeal may be awarded under parts 1 through 3
 20 of this chapter or under 2-18-1011 through 2-18-1013 may not
 21 extend beyond 30 days prior to the date the appeal was
 22 filed. This provision shall not affect a classification or
 23 position appeal already in process on April 26, 1977."

24 Section 36. Section 2-18-303, MCA, is amended to read:

25 "2-18-303. Procedures for utilizing pay schedules. (1)

1 The pay schedules provided in 2-18-311 and 2-18-312 shall be
 2 implemented as follows:

3 (a) The pay schedule provided in 2-18-311 indicates
 4 the annual compensation for the fiscal year ending June 30,
 5 1986, for each grade and step for positions classified under
 6 the provisions of part 2 of this chapter.

7 (b) The pay schedule provided in 2-18-312 indicates
 8 the annual compensation for the fiscal year ending June 30,
 9 1987, for each grade and step for positions classified under
 10 the provisions of part 2 of this chapter.

11 (c) Each new employee shall advance from step 1 to
 12 step 2 of a grade after successfully completing 6 months of
 13 probationary service. The anniversary date of an employee
 14 shall be established at the end of the probationary period
 15 in accordance with rules promulgated by the department.

16 (d) (i) The compensation of each employee on the first
 17 day of the first pay period in fiscal year 1986 shall be
 18 that amount which corresponds to the grade and step occupied
 19 on the last day of the preceding fiscal year of 1985.

20 (ii) The compensation of each employee on the first day
 21 of the first pay period in fiscal year 1987 shall be that
 22 amount which corresponds to the grade and step occupied on
 23 the last day of the fiscal year 1985.

24 (iii) In compliance with rules adopted to implement
 25 this part, each employee is eligible on his anniversary date

1 to advance one step in the pay matrix for fiscal year 1987.
 2 However, if the employee's anniversary date falls between
 3 (inclusive) July 1 and the first day of the first pay period
 4 of fiscal year 1987, he will advance one step on the first
 5 day of that pay period.

6 (2) The pay schedules provided in 2-18-311 and
 7 2-18-312 and the provisions of subsection (1) of this
 8 section do not apply to those institutional teachers, ~~liquor~~
 9 ~~store~~ ~~occupations~~, ~~or~~ and blue-collar occupations
 10 compensated under the pay schedules provided in 2-18-313,
 11 ~~2-18-314~~, ~~or~~ and 2-18-315.

12 (3) The pay schedules provided in 2-18-313, ~~2-18-314~~,
 13 ~~or~~ and 2-18-315 shall be implemented as follows:

14 (a) (i) The pay schedules provided in 2-18-313
 15 indicate the annual compensation for the contracted school
 16 term for teachers employed by institutions under the
 17 authority of the department of institutions for fiscal years
 18 1986 and 1987.

19 (ii) The compensation of each teacher on the first day
 20 of the first pay period in July, 1985, shall be that amount
 21 which corresponds to his level of academic achievement and
 22 the step occupied on June 30, 1985.

23 (iii) The compensation of each teacher on the first day
 24 of the first pay period in July, 1986, shall be that amount
 25 which corresponds to his level of achievement and the step

1 occupied on June 30, 1985.

2 ~~(b) (i) The pay schedules provided in 2-18-314~~
 3 ~~indicate the maximum hourly compensation for fiscal years~~
 4 ~~ending June 30, 1986, and June 30, 1987, for those employees~~
 5 ~~in liquor store occupations who have collectively bargained~~
 6 ~~separate classification and pay plans.~~

7 ~~(ii) The compensation of each employee on the first day~~
 8 ~~of the first pay period in fiscal year 1986 or 1987, as the~~
 9 ~~case may be, shall be that amount which corresponds to that~~
 10 ~~grade occupied on the last day of the preceding fiscal year.~~

11 ~~(c)(b) (i) The pay schedules provided in 2-18-315~~
 12 ~~indicate the maximum hourly compensation for fiscal years~~
 13 ~~ending June 30, 1986, and June 30, 1987, for employees in~~
 14 ~~apprentice trades and crafts and other blue-collar~~
 15 ~~occupations recognized in the state blue-collar~~
 16 ~~classification plan who are members of units that have~~
 17 ~~collectively bargained separate classification and pay~~
 18 ~~plans.~~

19 (ii) The compensation of each employee on the first day
 20 of the first pay period in fiscal year 1986 or 1987, as the
 21 case may be, shall be that amount which corresponds to that
 22 grade occupied on the last day of the preceding fiscal year.

23 (4) (a) (i) No member of a bargaining unit may receive
 24 the amounts indicated in the respective pay schedules
 25 provided in 2-18-311 through 2-18-313 and 2-18-315 until the

1 bargaining unit of which he is a member ratifies a
2 completely integrated collective bargaining agreement
3 covering the biennium ending June 30, 1987.

4 (ii) In the event that negotiation and ratification of
5 a completely integrated collective bargaining agreement as
6 required by subsection (4)(a)(i) of this section are not
7 completed by July 1, 1985, retroactivity to that date may be
8 negotiated.

9 (iii) In the event that negotiation and ratification of
10 a completely integrated collective bargaining agreement as
11 required by subsection (4)(a)(i) of this section are not
12 completed by July 1, 1985, members of the bargaining unit
13 involved will continue to receive the compensation they were
14 receiving as of June 30, 1985.

15 (b) Methods of administration not inconsistent with
16 the purpose of this part and necessary to properly implement
17 the pay schedules provided in 2-18-313 through and 2-18-315
18 may be provided for in collective bargaining agreements.

19 (5) The current wage or salary of an employee shall
20 not be reduced by the implementation of the pay schedules
21 provided for in 2-18-311 through 2-18-313 and 2-18-315.

22 (6) The department may authorize a separate pay
23 schedule for medical doctors if the rates provided in
24 2-18-311 and 2-18-312 are not sufficient to attract and
25 retain fully licensed and qualified physicians at the state

1 institutions.

2 (7) The department may develop programs which will
3 enable the department to mitigate problems associated with
4 difficult recruitment, retention, transfer, or other
5 exceptional circumstances. Insofar as the program may apply
6 to employees within a collective bargaining unit, it shall
7 be a negotiable subject under 39-31-305."

8 Section 37. Section 2-18-304, MCA, is amended to read:

9 "2-18-304. Longevity allowance. (1) In addition to the
10 compensation provided for in 2-18-311, 2-18-312, 2-18-313,
11 ~~2-18-314~~, or 2-18-315, each employee who has completed 5
12 years of uninterrupted state service shall receive the
13 larger of \$10 a month or 10% of the difference between the
14 base compensation for his grade and step (where applicable)
15 and the base compensation for the next highest grade and
16 corresponding step (where applicable) multiplied by the
17 number of completed, contiguous 5-year periods of
18 uninterrupted state service. Service to the state is not
19 interrupted by authorized leaves of absence.

20 (2) (a) For the purpose of determining years of
21 service under this section, an employee must be credited
22 with 1 year of service for each period of:

23 (i) 2,080 hours of service following his date of
24 employment; an employee must be credited with 80 hours of
25 service for each biweekly pay period in which he is in a pay

1 status or on an authorized leave of absence without pay,
2 regardless of the number of hours of service in the pay
3 period; or

4 (ii) 12 uninterrupted calendar months following his
5 date of employment in which he was in a pay status or on an
6 authorized leave of absence without pay, regardless of the
7 number of hours of service in any one month. An employee of
8 a school at a state institution or the university system
9 must be credited with 1 year of service if he is employed
10 for an entire academic year.

11 (b) State agencies, other than the university system
12 and a school at a state institution, shall use the method
13 provided in subsection (2)(a)(i) to calculate years of
14 service under this section."

15 Section 38. Section 2-18-305, MCA, is amended to read:

16 "2-18-305. Allocation between wages and group
17 benefits. (1) The dollar amounts shown in the respective pay
18 schedules provided in 2-18-311, 2-18-312, 2-18-313,
19 2-18-314, or 2-18-315, as the case may be, represent the
20 maximum amount allocated by the state for wages and group
21 benefits, exclusive of longevity as defined in 2-18-304.
22 Except as provided in subsection (2) of this section, that
23 amount specifically allocated for group benefits shall be
24 determined by 2-18-703. An employee who elects not to be
25 covered by a state employee group benefit plan will receive

1 as wages the amount shown in the appropriate pay schedule
2 less the state contribution for group benefits as determined
3 by 2-18-703.

4 (2) Employees may, through collective bargaining,
5 determine the allocation of the amounts shown in the pay
6 schedules provided in 2-18-311, 2-18-312, 2-18-313,
7 2-18-314, or 2-18-315, as the case may be, between wages and
8 group benefits, except that in no case may the group
9 benefits allocation be less than the amounts provided in
10 2-18-703."

11 NEW SECTION. Section 39. Closing of existing state
12 retail liquor stores. The department of revenue shall close
13 all existing state retail liquor stores, including agency
14 stores, on October 1, 1987.

15 NEW SECTION. Section 40. Extension of authority. Any
16 existing authority of the department of revenue or the
17 department of administration to make rules on the subject of
18 the provisions of this act is extended to the provisions of
19 this act.

20 NEW SECTION. Section 41. Repealer. Sections 2-18-314,
21 16-2-101, 16-2-104 through 16-2-107, 16-2-301, and 16-3-307,
22 MCA, are repealed.

23 NEW SECTION. Section 42. Effective dates. (1)
24 Sections 39, 40, and this section are effective on passage
25 and approval.

LC 0026/01

1 (2) The remaining sections are effective October 1,
2 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB313, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

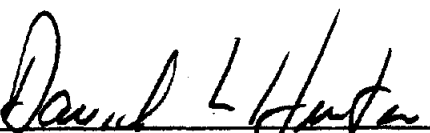
An act to abolish liquor stores; to revise the law relating to sales by the state warehouse; to clarify terminology; and providing effective dates.

ASSUMPTIONS:

1. Revenue Estimating Advisory Council (REAC) assumptions are the basis for comparison.
2. The change in systems, embodied in this proposal, will not cause a reduction in gallons of liquor or wine sold.
3. Due to pooled purchase provisions in the law, all sales to taverns will receive the full 10% discount.
4. Freight shipments to taverns will have a significantly higher tariff due to small weight on a weekly delivery basis.
5. The Purchasing and Warehouse Bureaus would have to increase staff, under this proposal, due to increased transaction level resulting from the shift from 139 outlets to 1,500 taverns.
6. The Stores Bureau and all liquor stores will be terminated under the proposed law.
7. The proposed law becomes effective October 1, 1987. Hence it will impact only 9 months of FY88.
8. It is the intent of the proposed law that the state receive no profit from the markup of wine and liquor.
9. Liquor excise tax allocation: 100% general fund.
10. Liquor license tax allocation: 34.5% local governments; 65.5% institutions.
11. Table wine tax allocation: .16/.27 general fund; .0266/.27 local governments; .0834/.27 institutions.
12. Liquor profit allocation: 100% general fund.
13. Under current law, there is a uniform price mark-up. Under the proposed law, there is no uniform price mark-up.

FISCAL IMPACT:

Revenue:	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Liquor Excise Tax	\$ 5,397,000	\$ 4,988,000	(\$ 409,000)	\$ 5,179,000	\$ 4,633,000	(\$ 546,000)
Liquor License Tax	3,373,000	3,117,000	(256,000)	3,237,000	2,896,000	(341,000)
Table Wine Tax	72,000	72,000	0	65,000	65,000	0
Liquor Profit	4,151,000	1,038,000	(3,113,000)	3,789,000	0	(3,789,000)
Other Income	34,000	34,000	0	36,000	36,000	0
TOTAL	\$13,027,000	\$ 9,249,000	(\$3,778,000)	\$12,306,000	\$ 7,630,000	(\$4,676,000)

 DATE 1/26/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 1/26/87
 ROBERT J. PAVLOVICH, PRIMARY SPONSOR

Fiscal Note for HB313, as introduced.

HB-313

Fiscal Note Request, HB313, as introduced.

Form BD-15

Page 2

Expenditures:	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Discounts	\$ 561,000	\$ 3,240,000	\$2,679,000	\$ 493,000	\$ 4,066,000	\$3,573,000
Operating Expense	6,816,000	3,484,000	(3,332,000)	6,764,000	2,321,000	(4,443,000)
Freight to Outlets	516,000	1,201,000	685,000	516,000	1,429,000	913,000
TOTAL	\$ 7,893,000	\$ 7,925,000	\$ 32,000	\$ 7,773,000	\$ 7,816,000	\$ 43,000
Net Effect	\$ 5,134,000	\$ 1,324,000	(\$3,810,000)	\$ 4,533,000	(\$ 186,000)	(\$4,719,000)
<u>Fund Information:</u>						
General Fund	\$ 9,591,000	\$ 6,069,000	(\$3,522,000)	\$ 9,007,000	\$ 4,672,000	(\$4,335,000)
Institutions	\$ 2,232,000	\$ 2,064,000	(\$ 168,000)	\$ 2,140,000	\$ 1,917,000	(\$ 223,000)
Local Governments	\$ 1,170,000	\$ 1,082,000	(\$ 88,000)	\$ 1,123,000	\$ 1,005,000	(\$ 118,000)
Liquor Proprietary	\$ 34,000	\$ 34,000	\$ 0	\$ 36,000	\$ 36,000	\$ 0

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Liquor License and Table Wine Tax Allocations to Local Governments (see also "Fund Information")

	FY88	FY89
Current law	\$ 1,170,000	\$ 1,123,000
Proposed law	1,082,000	1,005,000
Estimated Decrease	\$ (88,000)	\$ (118,000)

HB-313

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB313, as introduced.
REVISED FISCAL NOTE

DESCRIPTION OF PROPOSED LEGISLATION:


An act to abolish liquor stores; to revise the law relating to sales by the state warehouse; to clarify terminology; and providing effective dates.

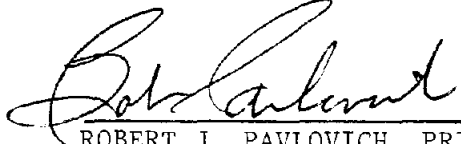
ASSUMPTIONS:

1. Revenue Estimating Advisory Council (REAC) assumptions are the basis for comparison.
2. The change in systems, embodied in this proposal, will not cause a reduction in gallons of liquor or wine sold.
3. Due to pooled purchase provisions in the law, all sales to taverns will receive the full 10% discount.
4. Freight shipments to taverns will have a significantly higher tariff due to small weight on a weekly delivery basis.
5. The Purchasing and Warehouse Bureaus would have to increase staff, under this proposal, due to increased transaction level resulting from the shift from 139 outlets to 1,500 taverns.
6. The Stores Bureau and all liquor stores will be terminated under the proposed law.
7. The proposed law becomes effective October 1, 1987. Hence it will impact only 9 months of FY88.
8. It is the intent of the proposed law that the state receive no profit from the markup of wine and liquor.
9. Liquor excise tax allocation: 100% general fund.
10. Liquor license tax allocation: 34.5% local governments; 65.5% institutions.
11. Table wine tax allocation: .16/.27 general fund; .0266/.27 local governments; .0834/.27 institutions.
12. Liquor profit allocation: 100% general fund.
13. Under current law, there is a uniform price mark-up. Under the proposed law, there is no uniform price mark-up.
14. Conversion of inventory under this proposal will result in a one time (in FY88) shift of \$2,532,000 from the proprietary fund to the general fund.

FISCAL IMPACT:

Revenue:	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Liquor Excise Tax	\$ 5,397,000	\$ 4,988,000	(\$ 409,000)	\$ 5,179,000	\$ 4,633,000	(\$ 546,000)
Liquor License Tax	3,373,000	3,117,000	(256,000)	3,237,000	2,896,000	(341,000)
Table Wine Tax	72,000	72,000	0	65,000	65,000	0
Liquor Profit	4,151,000	1,038,000	(3,113,000)	3,789,000	0	(3,789,000)
Other Income	34,000	34,000	0	36,000	36,000	0
TOTAL	\$13,027,000	\$ 9,249,000	(\$3,778,000)	\$12,306,000	\$ 7,630,000	(\$4,676,000)

 DATE 2/5/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 2-6-87
 ROBERT J. PAVLOVICH, PRIMARY SPONSOR

Fiscal Note for HB313, as introduced.
REVISED FISCAL NOTE. **HB 313**

#2

Fiscal Note Request, HB313, as introduced.

REVISED FISCAL NOTE.

Form BD-15

Page 2

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Discounts	\$ 561,000	\$ 3,240,000	\$2,679,000	\$ 493,000	\$ 4,066,000	\$3,573,000
Operating Expense	6,816,000	3,484,000	(3,332,000)	6,764,000	2,321,000	(4,443,000)
Freight to Outlets	516,000	1,201,000	685,000	516,000	1,429,000	913,000
TOTAL	\$ 7,893,000	\$ 7,925,000	\$ 32,000	\$ 7,773,000	\$ 7,816,000	\$ 43,000
Net Effect	\$ 5,134,000	\$ 1,324,000	(\$3,810,000)	\$ 4,533,000	(\$ 186,000)	(\$4,719,000)
<u>Fund Information:</u>						
General Fund*	\$ 9,591,000	\$ 8,601,000	(\$ 990,000)	\$ 9,007,000	\$ 4,672,000	(\$4,335,000)
Institutions	\$ 2,232,000	\$ 2,064,000	(\$ 168,000)	\$ 2,140,000	\$ 1,917,000	(\$ 223,000)
Local Governments	\$ 1,170,000	\$ 1,082,000	(\$ 88,000)	\$ 1,123,000	\$ 1,005,000	(\$ 118,000)
Liquor Proprietary	\$ 34,000	\$ 34,000	\$ 0	\$ 36,000	\$ 36,000	\$ 0

*Includes \$2,532,000 transferred to the general fund due to inventory conversion.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Liquor License and Table Wine Tax Allocations to Local Governments (see also "Fund Information")

	FY88	FY89
Current law	\$ 1,170,000	\$ 1,123,000
Proposed law	1,082,000	1,005,000
Estimated Decrease	\$ (88,000)	\$ (118,000)

HB 313 #2

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 313

INTRODUCED BY PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH STATE LIQUOR STORES; TO REVISE THE LAW RELATING TO SALES BY THE STATE WAREHOUSE; TO CLARIFY TERMINOLOGY; AMENDING SECTIONS 2-17-101, 2-18-203, 2-18-303 THROUGH 2-18-305, 16-1-103, 16-1-105, 16-1-106, 16-1-202, 16-1-301 THROUGH 16-1-304, 16-1-401, 16-1-402, 16-1-404, 16-2-103, 16-2-106 16-2-108, 16-2-201, 16-2-203, ~~16-2-302~~~~16-2-303~~ 16-3-103, 16-3-106, 16-3-401, 16-4-201, 16-4-202, 16-4-204, 16-4-205, 16-4-207 THROUGH 16-4-209, 16-4-404, 16-4-501, 16-4-503, 16-6-107, 16-6-301, AND 16-6-303, MCA; REPEALING SECTIONS 2-18-314, 16-2-101, 16-2-104 ~~THROUGH~~, 16-2-105, 16-2-107, 16-2-301 THROUGH 16-2-303, AND 16-3-307, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 16-1-103, MCA, is amended to read:

"16-1-103. Policy as to retail sale of liquor. It is the policy of the state that it is necessary to further regulate and control the sale and distribution of alcoholic beverages within the state and to ensure the entire control of the sale of liquor in the department of revenue. It is advisable and necessary ~~7-in-addition-to-the-operation-of-the~~

~~state-liquor-stores-now-provided-by-law~~ that the department be empowered and authorized to grant licenses to persons qualified under this code to sell liquor purchased by them at the state liquor-stores warehouse at ~~retail~~ the posted price in accordance with this code and under rules promulgated by the department and under its strict supervision and control and to provide severe penalty for the sale of liquor except by ~~and-in-state-liquor-stores--and~~ by persons licensed under this code. The restrictions, regulations, and provisions contained in this code are enacted by the legislature for the protection, health, welfare, and safety of the people of the state."

Section 2. Section 16-1-105, MCA, is amended to read:

"16-1-105. Divisions of code. This code is divided into six chapters. Chapter 1 relates to the authority of the department of revenue to administer this code and the powers and functions of the department. Chapter 2 relates to ~~the establishment--of--state--stores--and--the--keeping--and~~ selling--of--liquors price of liquor ~~and-the-sale-of-table~~ wine. Chapter 3 relates to the control of liquor, wine, and beer. Chapter 4 relates to license administration. Chapter 5 relates to identification cards. Chapter 6 relates to enforcement."

Section 3. Section 16-1-106, MCA, is amended to read:

"16-1-106. Definitions. As used in this code, the



1 following definitions apply:

2 ~~{1}~~ ~~"Agency--agreement"--means--an--agreement--between--the~~
 3 ~~department--and--a--person--appointed--to--sell--liquor--as--a~~
 4 ~~commission--merchant--rather--than--as--an--employee--~~

5 {2}{1} "Alcohol" means ethyl alcohol, also called
 6 ethanol, or the hydrated oxide of ethyl.

7 {3}{2} "Alcoholic beverage" means a compound produced
 8 and sold for human consumption as a drink that contains more
 9 than .5% of alcohol by volume.

10 {4}{3} "Beer" means a malt beverage containing not
 11 more than 7% of alcohol by weight.

12 {5}{4} "Beer importer" means a person other than a
 13 brewer who imports malt beverages.

14 {6}{5} "Brewer" means a person who produces malt
 15 beverages.

16 {7}{6} "Department" means the department of revenue.

17 {8}{7} "Immediate family" means a spouse, dependent
 18 children, or dependent parents.

19 {9}{8} "Import" means to transfer beer or table wine
 20 from outside the state of Montana into the state of Montana.

21 {10}{9} "Industrial use" means a use described as
 22 industrial use by the federal Alcohol Administration Act and
 23 the federal rules and regulations of 27 CFR.

24 {11}{10} "Liquor" means an alcoholic beverage except
 25 beer and table wine.

1 ~~{12}~~{11} "Malt beverage" means an alcoholic beverage
 2 made by the fermentation of an infusion or decoction, or a
 3 combination of both, in potable brewing water, of malted
 4 barley with or without hops or their parts or their products
 5 and with or without other malted cereals and with or without
 6 the addition of unmalted or prepared cereals, other
 7 carbohydrates, or products prepared therefrom and with or
 8 without other wholesome products suitable for human food
 9 consumption.

10 ~~{13}~~{12} "Package" means a container or receptacle used
 11 for holding an alcoholic beverage.

12 ~~{14}~~{13} "Posted price" means the ~~retail~~ wholesale
 13 price of paid by licensees for liquor and--wine purchased
 14 from the state warehouse by licensees. The term includes the
 15 price as fixed and determined by the department and in
 16 addition thereto ~~an--excise--and--license--tax--as~~ any taxes
 17 provided in this code. The term includes shipping costs, but
 18 only when an item is shipped.

19 {15}{14} "Proof gallon" means a U.S. gallon of liquor
 20 at 60 degrees on the Fahrenheit scale that contains 50% of
 21 alcohol by volume.

22 {16}{15} "Public place" means a place, building, or
 23 conveyance to which the public has or may be permitted to
 24 have access and any place of public resort.

25 {16} "Retail all-beverages license" includes a tavern,

1 resort, or public airport retail all-beverages license.

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

4 ~~{18}-"State-liquor-facility"-means-a-facility-owned-or~~
5 ~~under-control-of-the-department-for-the-purpose-of~~
6 ~~receiving,-storing,-transporting,-or-selling-alcoholic~~
7 ~~beverages-~~

8 ~~{19}-"State-liquor-store"-means-a-retail-store-operated~~
9 ~~by-the-department-in-accordance-with-this-code-for-the~~
10 ~~purpose-of-selling-liquor-~~

11 {18} "State warehouse" means the state warehouse
12 operated by the department and includes branches of the
13 state warehouse.

14 ~~{20}{19} "Storage depot" means a building or structure~~
15 ~~owned or operated by a brewer at any point in the state of~~
16 ~~Montana off and away from the premises of a brewery, and~~
17 ~~which structure is equipped with refrigeration or cooling~~
18 ~~apparatus for the storage of beer and from which a brewer~~
19 ~~may sell or distribute beer as permitted by this code.~~

20 ~~{21}{20} "Subwarehouse" means a building or structure~~
21 ~~owned or operated by a licensed beer wholesaler or table~~
22 ~~wine distributor, located at a site in Montana other than~~
23 ~~the site of such beer wholesaler's or table wine~~
24 ~~distributor's warehouse or principal place of business, and~~
25 ~~used for the receiving, storage, and distribution of beer or~~

1 table wine as permitted by this code.

2 ~~{22}{21} "Table wine" means wine as defined below which~~
3 ~~contains not more than 16% alcohol by volume.~~

4 ~~{23}{22} "Warehouse" means a building or structure~~
5 ~~located in Montana owned or operated by a licensed beer~~
6 ~~wholesaler or table wine distributor for the receiving,~~
7 ~~storage, and distribution of beer or table wine as permitted~~
8 ~~by this code.~~

9 ~~{24}{23} "Wine" means an alcoholic beverage made from~~
10 ~~or containing the normal alcoholic fermentation of the juice~~
11 ~~of sound, ripe fruit or other agricultural products without~~
12 ~~addition or abstraction, except as may occur in the usual~~
13 ~~cellar treatment of clarifying and aging, and that contains~~
14 ~~more than 0.5% but not more than 24% of alcohol by volume.~~
15 ~~Wine may be ameliorated to correct natural deficiencies,~~
16 ~~sweetened, and fortified in accordance with applicable~~
17 ~~federal regulations and the customs and practices of the~~
18 ~~industry. Other alcoholic beverages not defined as above~~
19 ~~but made in the manner of wine and labeled and sold as wine~~
20 ~~in accordance with federal regulations are also wine."~~

21 Section 4. Section 16-1-202, MCA, is amended to read:

22 "16-1-202. Preparations not subject to code. (1)
23 Subject to the provisions of this section, nothing in this
24 code shall, by reason only that such preparation contains
25 alcohol, prevent the manufacture, sale, purchase, or

1 consumption of any:

2 (a) extract, essence, or tincture or other preparation
3 containing alcohol which is prepared according to a formula
4 of the United States Pharmacopoeia or according to a formula
5 approved of by the department; or

6 (b) proprietary or patent medicine prepared according
7 to a formula approved of by the department.

8 (2) The department, if of opinion that any such
9 proprietary or patent medicine, extract, essence, tincture,
10 or preparation which contains alcohol or any other
11 preparation of a solid, semisolid, or liquid nature
12 containing alcohol which, or any extract from which, can be
13 used as a beverage or as the ingredient of any beverage, may
14 prohibit the sale thereof by retail within the state or the
15 possession of the same for sale by retail within the state,
16 except by ~~a state liquor store or~~ by persons duly licensed
17 by the department to keep and sell the same by at retail in
18 accordance with this code and ~~the regulations made~~
19 thereunder rules adopted by the department.

20 (3) The department shall notify the manufacturer or
21 vendor of such proprietary or patent medicine, extract,
22 essence, tincture, or preparation of the prohibition."

23 Section 5. Section 16-1-301, MCA, is amended to read:
24 "16-1-301. Administration of code. The department
25 shall have the powers and duties to administer the Montana

1 Alcoholic Beverage Code, ~~including the general control,~~
2 ~~management, and supervision of all state liquor stores."~~

3 Section 6. Section 16-1-302, MCA, is amended to read:
4 "16-1-302. Functions, powers, and duties of
5 department. (1) The department shall have the following
6 functions, duties, and powers:

7 ~~(1)(a)~~ (a) to buy, import, have in its possession for
8 sale, and sell liquors to licensees through the state
9 warehouse liquor and table wine in the manner set forth in
10 this code;

11 ~~(2)(b)~~ (b) to control the possession, sale, and delivery
12 of liquors liquor in accordance with the provisions of this
13 code;

14 ~~(3) to determine the municipalities within which state~~
15 ~~liquor stores shall be established throughout the state and~~
16 ~~the situation of the stores within every such municipality;~~

17 ~~(4)(c)~~ (c) to buy or lease, furnish, and equip any one
18 building or and necessary land required for the operation of
19 the state warehouse under this code;

20 ~~(5) to buy or lease all plants and equipment it may~~
21 ~~consider necessary and useful in carrying into effect the~~
22 ~~objects and purposes of this code;~~

23 ~~(6)(d)~~ (d) to employ store managers a state warehouse
24 manager and branch managers and also every officer,
25 investigator, clerk, or other employee required for the

1 operation or carrying out of this code and to dismiss the
 2 same, fix their salaries or remuneration, assign them their
 3 title, define their respective duties and powers, and to
 4 engage the service of experts and persons engaged in the
 5 practice of a profession, if deemed expedient;

6 ~~(7)~~(e) to determine the nature, form, and capacity of
 7 all packages to be used for containing liquor kept or sold
 8 under this code;

9 ~~(8)~~(f) to grant and issue licenses under and in
 10 pursuance to this code; and

11 ~~(9)~~(g) without in any way limiting or being limited by
 12 the foregoing, to do all such things as are deemed necessary
 13 or advisable by the department for the purpose of carrying
 14 into effect the provisions of this code or the rules made
 15 thereunder of the department.

16 (2) The department may operate only one state
 17 warehouse under this code. However, it may buy or lease,
 18 furnish, and equip buildings and necessary land for branches
 19 of the state warehouse."

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

21 "16-1-303. Department rules. (1) The department may
 22 make such rules not inconsistent with this code as to the
 23 department seem necessary for carrying out the provisions of
 24 this code and for the efficient administration thereof.

25 (2) Without thereby limiting the generality of the

1 provisions contained in subsection (1) hereof, it is
 2 declared that the power of the department to make rules in
 3 the manner set out in that subsection shall extend to and
 4 include the following:

5 (a) regulating the equipment and management of the
 6 ~~state stores and warehouses in which liquor or table wine is~~
 7 ~~kept or sold~~ warehouse and prescribing the books and records
 8 to be kept therein;

9 (b) prescribing the duties of the employees of the
 10 liquor division and regulating their conduct while in the
 11 discharge of their duties;

12 ~~(c) governing the purchase of liquor and the~~
 13 ~~furnishing of liquor to state stores established under this~~
 14 ~~code;~~

15 ~~(d) determining the classes, varieties, and brands of~~
 16 ~~liquor and table wine to be kept for sale at any state~~
 17 ~~store;~~

18 ~~(e) prescribing, subject to this code, the hours~~
 19 ~~during which state liquor stores shall be kept open for the~~
 20 ~~sale of alcoholic beverages;~~

21 ~~(f)~~(c) providing for the issuing and distributing of
 22 price lists showing the posted price to be paid by
 23 purchasers licensees for each class, variety, or brand of
 24 liquor ~~and table wine kept for sale under this code~~
 25 purchased from the state warehouse;

1 ~~(g)~~(d) prescribing forms to be used for the purpose of
2 this code or of the rules made thereunder and the terms and
3 conditions in permits and licenses issued and granted under
4 this code;

5 ~~(h)~~(e) prescribing the form of records of purchase of
6 liquor ~~and-table-wine~~ and the reports to be made thereon to
7 the division and providing for inspection of the records so
8 kept;

9 ~~(i)~~(f) prescribing the manner of giving and serving
10 notices required by this code or the rules thereunder;

11 ~~(j)~~(g) prescribing the fees payable in respect of
12 permits and licenses issued under this code for which no
13 fees are prescribed in this code and prescribing the fees
14 for anything done or permitted to be done under the rules
15 made thereunder;

16 ~~(k)~~(h) prescribing, subject to the provisions of this
17 code, the conditions and qualifications necessary for the
18 obtaining of a liquor or beer license and the books and
19 records to be kept and the returns to be made by the
20 licensees and providing for the inspection of such licensed
21 premises;

22 ~~(l)~~(i) specifying and describing the place and the
23 manner in which liquor or beer may be lawfully kept or
24 stored;

25 ~~(m)~~(j) specifying and regulating the time and periods

1 when and the manner, methods, and means by which vendors and
2 brewers shall deliver liquor under this code and the time
3 and periods when and the manner, methods, and means by which
4 liquor, under this code, may be lawfully conveyed or
5 carried;

6 ~~(n)~~(k) governing the conduct, management, and
7 equipment of any premises licensed to sell liquor or beer
8 under this code; and

9 ~~(o)~~(l) providing for the imposition and collection of
10 taxes and making rules respecting returns, accounting, and
11 payment of the taxes to the department.

12 (3) Whenever it is provided in this code that any act,
13 matter, or thing may be done if permitted or authorized by
14 the rules or may be done in accordance with the rules or as
15 provided by the rules, the department, subject to the
16 restrictions set out in subsection (1) hereof, shall have
17 the power to make rules respecting such act, matter, or
18 thing."

19 Section 8. Section 16-1-304, MCA, is amended to read:

20 "16-1-304. Prohibited acts within division. (1) No
21 officer or employee of the liquor division ~~including those~~
22 ~~engaged in the sale of liquor at the various state liquor or~~
23 ~~table-wine stores~~; may be directly or indirectly interested
24 or engaged in any other business or undertaking dealing in
25 liquor ~~or-table-wine~~, whether as owner, part owner, partner,

1 member of syndicate, shareholder, agent, or employee and
 2 whether for his own benefit or in a fiduciary capacity for
 3 some other person.

4 (2) No member or employee of the division or any
 5 employee of the state may solicit or receive directly or
 6 indirectly any commission, remuneration, or gift whatsoever
 7 from any person or corporation having sold, selling, or
 8 offering liquor ~~or-table-wine~~ for sale to the state or
 9 division pursuant to this code.

10 (3) No person selling or offering for sale to or
 11 purchasing liquor or ~~table~~ wine from the state liquor
 12 division may either directly or indirectly offer to pay any
 13 commission, profit, or remuneration or make any gift to any
 14 member or employee of the division, to any employee of the
 15 state, or to anyone on behalf of such member or employee.

16 (4) The prohibition contained in subsection (3) of
 17 this section does not prohibit the division from receiving
 18 samples of liquor or ~~table~~ wine for the purpose of chemical
 19 testing, subject to the following limitations:

20 (a) Each manufacturer, distiller, compounder,
 21 rectifier, importer, or wholesale distributor or any other
 22 person, firm, or corporation proposing to sell any liquor or
 23 ~~table~~ wine to the Montana liquor division shall submit,
 24 without cost to the division prior to the original purchase,
 25 an analysis of each brand and may submit a representative

1 sample not exceeding 25 fluid ounces of such merchandise to
 2 the division.

3 (b) When a brand of liquor or ~~table~~ wine has been
 4 accepted for testing by the division, the division shall
 5 forward the sample, unopened and in its entirety, to a
 6 qualified chemical laboratory for analysis.

7 (c) The division shall maintain written records of all
 8 samples received. The records shall show the brand name,
 9 amount and from whom received, date received, the laboratory
 10 or chemist to whom forwarded, the division's action on the
 11 brand, and the person to whom delivered or other final
 12 disposition of the sample.

13 (5) No liquor, or wine, ~~or other alcoholic beverage~~
 14 may be withdrawn from the regular state warehouse inventory
 15 ~~or from the state liquor stores of the Montana liquor~~
 16 ~~division~~ for any purpose other than sale by the state to
 17 licensees at the prevailing ~~state-retail~~ prices posted price
 18 or for destroying damaged or defective merchandise. The
 19 division shall maintain a written record including the type,
 20 brand, container size, number of bottles or other units,
 21 signatures of witnesses, and method of destruction or other
 22 disposition of damaged or defective state warehouse ~~or-state~~
 23 ~~store~~ merchandise."

24 Section 9. Section 16-1-401, MCA, is amended to read:
 25 "16-1-401. Liquor excise tax. (1) The department is

hereby authorized and directed to charge, receive, and collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the state of Montana an excise tax at the rate of:

~~(a) 16% of the retail wholesale selling price on all liquor sold and delivered to licensees in the state by a company that manufactured, distilled, rectified, bottled, or processed and sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;~~

~~(b) 13.8% of the retail wholesale selling price on all liquor sold and delivered to licensees in the state by a company that manufactured, distilled, rectified, bottled, or processed and sold not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section \$1.75 A LITER.~~

(2) The department shall retain the amount of such the excise tax received in a separate account and shall deposit with the state treasurer, to the credit of the general fund, such the sums collected and received not later than the 10th day of each and every month."

Section 10. Section 16-1-402, MCA, is amended to read:

"16-1-402. Payment of excise tax by carriers. (1) Every airline or railroad operating in the state of Montana and selling liquor purchased outside this state for

consumption within this state shall pay to the department the excise taxes and state markup which would be applicable to such liquor if purchased from the state ~~liquor store~~ warehouse.

(2) The amount of such excise taxes and state markup payable shall be determined by multiplying the following factors:

- (a) the average liquor used per departure;
- (b) the number of departures from Montana on which liquor is served;
- (c) the ratio of Montana revenue passenger miles to system revenue passenger miles; and

(d) the applicable excise tax and state markup rates.

(3) From said product, the carrier shall subtract the amount of excise taxes and state markup on purchases of liquor made within this state."

Section 11. Section 16-1-404, MCA, is amended to read:

"16-1-404. License tax on liquor -- amount -- distribution of proceeds. (1) The department is hereby authorized and directed to charge, receive, and collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax AT THE RATE of:

~~(a) 10% of the retail wholesale selling price on all liquor sold and delivered to licensees in the state by a~~

1 company that manufactured, distilled, rectified, bottled, or
2 processed, and sold more than 200,000 proof gallons of
3 liquor nationwide in the calendar year preceding imposition
4 of the tax pursuant to this section;

5 (b) 0.6% of the retail wholesale selling price on all
6 liquor sold and delivered to licensees in the state by a
7 company that manufactured, distilled, rectified, bottled, or
8 processed, and sold not more than 200,000 proof gallons of
9 liquor nationwide in the calendar year preceding imposition
10 of the tax pursuant to this section 65 CENTS A LITER.

11 (2) The license tax shall be charged and collected on
12 all liquor brought into the state and taxed by the
13 department. The retail wholesale selling price shall be
14 computed by adding to the cost of said liquor the state
15 markup as designated by the department. The license tax
16 shall be figured in the same manner as the state excise tax
17 and shall be in addition to said state excise tax. The
18 department shall retain in a separate account the amount of
19 the license tax so received. Thirty percent of these
20 revenues are statutorily appropriated, as provided in
21 17-7-502, to the department and shall be allocated to the
22 counties according to the amount of liquor purchased in each
23 county to be distributed to the incorporated cities and
24 towns, as provided in subsection (3). Four and one-half
25 percent of these revenues are statutorily appropriated, as

1 provided in 17-7-502, and shall be allocated to the counties
2 according to the amount of liquor purchased in each county,
3 and this money may be used for county purposes. The
4 remaining revenues shall be deposited in the state special
5 revenue fund to the credit of the department of institutions
6 for the treatment, rehabilitation, and prevention of
7 alcoholism. Provided, however, in the case of purchases of
8 liquor by a retail liquor licensee for use in his business,
9 the department shall make such regulations as are necessary
10 to apportion that proportion of license tax so generated to
11 the county where the licensed establishment is located, for
12 use as provided in 16-1-405. That proportion of the license
13 tax is statutorily appropriated, as provided in 17-7-502, to
14 the department, which shall pay quarterly to each county
15 treasurer the proportion of the license tax due each county
16 to be allocated to the incorporated cities and towns of the
17 county.

18 (3) The license tax proceeds allocated to the county
19 under subsection (2) for use by cities and towns shall be
20 distributed by the county treasurer to the incorporated
21 cities and towns within 30 days of receipt from the
22 department. The distribution of funds to the cities and
23 towns shall be based on the proportion that the gross sale
24 of liquor in each city or town is to the gross sale of
25 liquor in all of the cities and towns of the county.

1 (4) The license tax proceeds that are allocated to the
 2 department of institutions for the treatment,
 3 rehabilitation, and prevention of alcoholism shall be
 4 credited quarterly to the department of institutions. The
 5 legislature may appropriate a portion of the license tax
 6 proceeds to support alcohol programs. The remainder shall be
 7 distributed as provided in 53-24-206."

8 Section 12. Section 16-2-103, MCA, is amended to read:

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

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 purchased, the price paid therefor, the name of the
 18 licensee, and the number of the license, with such other
 19 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~~ warehouse, which shall at all times be subject to
 23 inspection by the duly authorized officers, agents, and
 24 employees of the department."

25 SECTION 13. SECTION 16-2-106, MCA, IS AMENDED TO READ:

1 "16-2-106. Purchase price in advance. ~~A--store~~ The
 2 state warehouse manager and other authorized state warehouse
 3 employees may sell to any person licensee such liquor as
 4 that person licensee is entitled to purchase in conformity
 5 with the provisions of this code and the rules made
 6 thereunder, provided that no delivery shall take place until
 7 the purchaser has paid the purchase price."

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

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

1 Section 15. Section 16-2-201, MCA, is amended to read:

2 "16-2-201. Reduction Price discount for quantity sales
3 of liquor. Reduction A reduction of 5% 10% of the retail
4 posted price of liquor sold at by the state liquor-store
5 warehouse shall be made by the department for sales of
6 liquor to any person purchasing liquor in unbroken case
7 lots. Two or more persons, none of whom desire or need to
8 purchase a whole case, may purchase a case together,
9 splitting the cost and contents. No other reduction discount
10 shall be made by the department for quantity sales of
11 liquor."

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

13 "16-2-203. Department sales to licensees. The
14 department may sell through its stores warehouse to
15 licensees licensed under this code all kinds of liquor, wine
16 containing more than 14% alcohol by volume, and cordials
17 kept in stock, at the posted price thereof in the store in
18 which the liquor is sold. All sales shall be upon a cash
19 basis. The licensee may have the liquor, wine, and cordials
20 shipped to him. The department shall pay shipping costs and
21 set the posted price at a level that will recover the total
22 cost of all shipments. The shipping cost portion of the
23 posted price must be deducted from the posted price when a
24 purchaser picks up alcoholic beverages at the warehouse. The
25 department may by rule require a minimum order that may not

1 exceed \$500 for a shipment."

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

3 ~~"16-2-302. State distribution sales. The department~~
4 ~~may import and distribute sell to licensees one or more~~
5 ~~named table wines to one or more designated state liquor~~
6 ~~stores, in the same manner as if the table wine contained~~
7 ~~more than 14% 16% alcohol by volume."~~

8 ~~Section 17. Section 16-2-303, MCA, is amended to read:~~

9 ~~"16-2-303. Department prohibited from engaging in~~
10 ~~unfair competition. (1) The department, in engaging in the~~
11 ~~retail wholesale sale of table wine to licensees, is subject~~
12 ~~to the provisions of Title 30, chapter 14, parts 1 and 2,~~
13 ~~except those provisions relating to enforcement and~~
14 ~~penalties:~~

15 ~~(2) A person aggrieved by a violation of this section~~
16 ~~by the department may maintain an action to enjoin the~~
17 ~~alleged violation and for the recovery of damages in the~~
18 ~~district court of the district where the conduct complained~~
19 ~~of occurred or where the department's principal office is~~
20 ~~located."~~

21 Section 17. Section 16-3-103, MCA, is amended to read:

22 "16-3-103. Unlawful sales solicitation or advertising
23 -- exceptions. (1) No person within the state shall:

24 (a) canvass for, receive, take, or solicit orders for
25 the purchase or sale of any liquor or act as agent or

1 intermediary for the sale or purchase of any liquor or hold
 2 himself out as such agent or intermediary unless permitted
 3 to do so under rules that shall be promulgated by the
 4 department to govern such activities;

5 (b) canvass for or solicit orders for the purchase or
 6 sale of any beer or malt liquor except in the case of beer
 7 proposed to be sold to beer licensees duly authorized to
 8 sell beer under the provisions of this code;

9 (c) exhibit, publish, or display or permit to be
 10 exhibited, published, or displayed any form of advertisement
 11 or any other announcement, publication, or price list of or
 12 concerning liquor or where or from whom the same may be had,
 13 obtained, or purchased unless permitted to do so by the
 14 rules of the department and then only in accordance with
 15 such rules.

16 (2) This section shall not apply to:

17 (a) the department, or any act of the department, ~~any~~
 18 ~~state-liquor-store~~; or

19 (b) the receipt or transmission of a telegram or
 20 letter by any telegraph agent or operator or post-office
 21 employee in the ordinary course of his employment as such
 22 agent, operator, or employee."

23 Section 18. Section 16-3-106, MCA, is amended to read:

24 "16-3-106. Conveyance of liquors -- opening liquor
 25 during transit forbidden. (1) It shall be lawful to carry or

1 convey liquor ~~to-any-state-store-and~~ to and from any the
 2 state warehouse ~~or-depot~~ established by the department for
 3 the purposes of this code, and when permitted to do so by
 4 this code and the rules made thereunder and in accordance
 5 therewith, it shall be lawful for any common carrier or
 6 other person to carry or convey ~~liquor-sold-by-a-vendor-from~~
 7 ~~a--state-store-or~~ beer, when lawfully sold by a brewer, from
 8 the premises wherein such beer was manufactured or from
 9 premises where the beer may be lawfully kept and sold to any
 10 place to which the same may be lawfully delivered under this
 11 code and the rules made thereunder.

12 (2) No common carrier or any other person shall open,
 13 break, or allow to be opened or broken any package or vessel
 14 containing liquor or drink or use or allow to be drunk or
 15 used any liquor therefrom while being carried or conveyed."

16 Section 19. Section 16-3-401, MCA, is amended to read:

17 "16-3-401. Public policy. The public policy of the
 18 state of Montana is to ~~maintain-a-system-for-the-importation~~
 19 ~~and--sale--of--wine--by--the--state-through~~ the state-liquor
 20 facilities warehouse and provide for, regulate, and control
 21 the acquisition, importation, and distribution of table wine
 22 containing not more than ~~14%~~ 16% alcohol by volume by
 23 licensed table wine distributors ~~and-the-state.~~"

24 Section 20. Section 16-4-201, MCA, is amended to read:

25 "16-4-201. All-beverages Retail tavern all-beverages

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

14 (a) in incorporated towns of 500 inhabitants or less
 15 and within a distance of 5 miles from the corporate limits
 16 of such towns, not more than two retail tavern all-beverages
 17 licenses;

18 (b) in incorporated cities or incorporated towns of
 19 more than 500 inhabitants and not over 3,000 inhabitants and
 20 within a distance of 5 miles from the corporate limits of
 21 such cities and towns, three retail tavern all-beverages
 22 licenses for the first 1,000 inhabitants and one retail
 23 tavern all-beverages license for each additional 1,000
 24 inhabitants; and

25 (c) in incorporated cities of over 3,000 inhabitants

1 and within a distance of 5 miles from the corporate limits
 2 thereof, five retail tavern all-beverages licenses for the
 3 first 3,000 inhabitants and one retail tavern all-beverages
 4 license for each additional 1,500 inhabitants.

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

24 (3) Retail tavern all-beverages licenses of issue on
 25 March 7, 1947, and retail tavern all-beverages licenses

1 issued under 16-4-209, which are in excess of the foregoing
 2 limitations shall be renewable, but no new licenses may be
 3 issued in violation of such limitations.

4 (4) Such limitations do not prevent the issuance of a
 5 nontransferable and nonassignable (as to ownership only)
 6 retail tavern all-beverages license to an enlisted men's,
 7 noncommissioned officers', or officers' club located on a
 8 state or federal military reservation on May 13, 1985, or to
 9 any post of a nationally chartered veterans' organization or
 10 any lodge of a recognized national fraternal organization if
 11 such veterans' or fraternal organization has been in
 12 existence for a period of 5 years or more prior to January
 13 1, 1949.

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

22 Section 21. Section 16-4-202, MCA, is amended to read:

23 "16-4-202. Resort Retail resort all-beverages
 24 licenses. (1) It is the intent and purpose of this section
 25 to encourage the growth of quality recreational resort

1 facilities in undeveloped areas of the state and to provide
 2 for the orderly growth of existing recreational sites by the
 3 establishment of resort areas within which ~~retail-liquor~~
 4 licenses to sell liquor, beer, and wine at retail for both
 5 on-premises and off-premises consumption (a retail resort
 6 all-beverages license) may be issued by the department under
 7 the terms and as more particularly prescribed below. In
 8 addition to the licenses as otherwise set forth in this
 9 code, the department may issue ~~resort-retail-liquor~~ retail
 10 resort all-beverages licenses in a resort area.

11 (2) For the purposes of this section, a resort area is
 12 defined as a recreational facility meeting the
 13 qualifications determined by the department as hereinafter
 14 provided.

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

19 (4) In addition to the other requirements of this
 20 code, a resort area, for the purposes of qualification for
 21 the issuance of ~~resort--retail--liquor~~ a retail resort
 22 all-beverages license, must have a current actual valuation
 23 of resort or recreational facilities, including land and
 24 improvements thereon, of not less than \$500,000, at least
 25 half of which valuation must be for a structure or

1 structures within the resort area, and must be under the
2 sole ownership or control of one person or entity at the
3 time of the filing of the resort area plat referred to in
4 subsection (5) of this section. The word control shall mean
5 lands held under lease, option, or permit.

6 (5) The resort area must be determined by the resort
7 developer or landowner by a plat setting forth the resort
8 boundaries, designating the ownership of the lands within
9 the resort area, which plat must be verified by the resort
10 developer or landowner and filed with the department prior
11 to the filing of any applications by individuals for
12 licenses within the resort area. Such plat must show the
13 location and general design of the buildings and other
14 improvements to be built in said area in which ~~resort-retail~~
15 ~~liquor retail resort all-beverages~~ licenses are to or may be
16 located. A master plan for the development of the area may
17 be filed by the resort developer in satisfaction of this
18 section.

19 (6) Upon such filing the department shall forthwith
20 schedule a public hearing to be held in Helena, Montana, to
21 determine whether the facility proposed by the resort
22 developer or landowner is a resort area within the meaning
23 of the rules of the department. At least 30 days prior to
24 the date of the hearing, the department shall publish notice
25 thereof, with a description of the location of the proposed

1 resort area, in a newspaper published in the county or
2 counties in which the resort is located, once a week for 4
3 consecutive weeks. Each resort developer or landowner
4 shall, at the time of filing his application, pay to the
5 department an amount sufficient to cover the costs of said
6 publication.

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

10 (8) Within 30 days of the hearing, the department
11 shall accept or reject the plat. If rejected the department
12 must state its reasons and set forth the conditions, if any,
13 under which the plat will be accepted, and the decision of
14 the department may be reviewed pursuant to the review
15 procedure set forth in 16-4-406.

16 (9) Once filed with the department, the boundaries of
17 a resort may not be changed without full hearing as above
18 provided and the prior approval of the department, which
19 approval shall be according to public convenience and
20 necessity.

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

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

4 (c) If an applicant otherwise qualifies for a retail
 5 resort all-beverages license but the premises to be licensed
 6 are still in construction or are otherwise incomplete at the
 7 time of such application, the department shall issue a
 8 letter stating that the license will be issued at such time
 9 as the qualifications for a licensed premises have been met,
 10 setting forth such time limitations and requirements as the
 11 department may establish.

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

17 (12) A ~~resort-retail-liquor~~ retail resort all-beverages
 18 license shall not be subject to the quota limitations set
 19 forth in 16-4-201, and if the requirements of this section
 20 have been met, a ~~resort--retail--liquor~~ retail resort
 21 all-beverages license shall be issued by the department on
 22 the basis that the department has determined that such
 23 license is justified by public convenience and necessity, in
 24 accordance with the procedure required in 16-4-207."

25 Section 22. Section 16-4-204, MCA, is amended to read:

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

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

11 (ii) the total number of retail tavern all-beverages
 12 licenses in the quota area to which the license would be
 13 transferred, exclusive of those issued under 16-4-209(1)(a)
 14 and (1)(b), did not exceed that area's quota in the most
 15 recent census prescribed in 16-4-502:

16 (A) by more than 33%; or

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

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

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

1 consent of the department when the quota of the retail
 2 tavern all-beverages licenses in the original quota area,
 3 exclusive of those issued under 16-4-209(1)(a) and (1)(b),
 4 exceeds the quota for that area by at least 25% in the most
 5 recent census and will not fall below that level because of
 6 the transfer.

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

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

15 (e) A license issued under 16-4-209(1)(a) may not be
 16 transferred to a location outside the quota area and the
 17 exterior boundaries of the Montana Indian reservation for
 18 which it was originally issued.

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

1 premises where the event is held.

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

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

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

1 premises where the event is to be held.

2 (e) The sale of alcoholic beverages pursuant to a
3 catering endorsement is subject to the provisions of
4 16-6-103.

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

9 Section 23. Section 16-4-205, MCA, is amended to read:

10 "16-4-205. Limit one license to person -- business in
11 name of licensee. No person shall be issued more than one
12 retail all-beverages license in any year, with the exception
13 of a secured party issued an additional retail all-beverages
14 license as the result of a default. Such a secured party
15 shall transfer ownership of any additional retail
16 all-beverages license within 180 days of issuance. No
17 business may be carried on under any license issued under
18 this chapter except in the name of the licensee."

19 Section 24. Section 16-4-207, MCA, is amended to read:

20 "16-4-207. Notice of application for retail
21 all-beverages license -- publication -- protest. (1) When an
22 application has been filed with the department for a retail
23 all-beverages license to sell alcoholic beverages at retail
24 or to transfer such license, the department shall promptly
25 publish in a newspaper of general circulation in the city,

1 town, or county from which the application comes a notice
2 that such applicant has made application for such license
3 and that protests against the issuance of a license to the
4 applicant may be mailed to a named administrator in the
5 department of revenue within 10 days after the final notice
6 is published. Notice of application for a new license shall
7 be published once a week for 4 consecutive weeks. Notice of
8 application for transfer of a license shall be published
9 once a week for 2 consecutive weeks. Notice may be
10 substantially in the following form:

11 NOTICE OF APPLICATION FOR RETAIL

12 ALL-BEVERAGES LICENSE

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

21 Dated Signed

22 ADMINISTRATOR

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

1 (3) If the administrator receives no written protests,
 2 the department may issue or transfer the license without
 3 holding a public hearing. If written protests against the
 4 issuance or transfer of the license are received, the
 5 department shall hold a public hearing at its office in
 6 Helena."

7 Section 25. Section 16-4-208, MCA, is amended to read:

8 "16-4-208. Airport Retail public airport all-beverages
 9 license. (1) The department of revenue shall issue one
 10 all-beverages license, to be known as a retail public
 11 airport all-beverages license, for use at each publicly
 12 owned airport served by scheduled airlines and enplaning and
 13 deplaning a minimum total of 20,000 passengers annually
 14 when:

15 (a) application is made;

16 (b) upon finding that this license is justified by
 17 public convenience and necessity, including the convenience
 18 and necessity of the public traveling by scheduled airlines;
 19 and

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

21 (2) Application shall be made by the agency owning and
 22 operating the airport. The agency owning and operating the
 23 airport may lease the retail public airport all-beverages
 24 license to an individual or entity approved by the
 25 department.

1 (3) A retail public airport all-beverages license and
 2 all retail liquor sales thereunder shall be subject to all
 3 statutes and rules governing retail all-beverages licenses.

4 (4) The department of revenue shall issue a retail
 5 public airport all-beverages license to a qualified
 6 applicant regardless of the number of retail all-beverages
 7 licenses already issued within the retail tavern
 8 all-beverages license quota area in which the airport is
 9 situated."

10 Section 26. Section 16-4-209, MCA, is amended to read:

11 "16-4-209. All-beverages Retail tavern all-beverages
 12 license for tribal alcoholic beverages licensee or enlisted
 13 men's, noncommissioned officers', or officers' club. (1)
 14 Upon application and qualification, the department shall
 15 issue an a retail tavern all-beverages license to:

16 (a) a tribal alcoholic beverages licensee who operates
 17 such business within the exterior boundaries of a Montana
 18 Indian reservation under a tribal license issued prior to
 19 January 1, 1985; and

20 (b) an enlisted men's, noncommissioned officers', or
 21 officers' club located on a state or federal military
 22 reservation in Montana on May 13, 1985.

23 (2) A license issued under the provisions of
 24 subsection (1) is not subject to the quota limitations of
 25 16-4-201.

1 (3) Upon application and approval by the department, a
 2 license issued under subsection (1)(a) may be transferred to
 3 another qualified applicant, but such license may only be
 4 transferred to a location within the quota area and the
 5 exterior boundaries of the Montana Indian reservation for
 6 which the license was originally issued.

7 (4) A license issued under this section is subject to
 8 all statutes and rules governing retail all-beverages
 9 licenses."

10 Section 27. Section 16-4-404, MCA, is amended to read:

11 "16-4-404. Protest period -- contents of license --
 12 posting -- privilege -- transfer. (1) No retail
 13 all-beverages license may be issued until on or after the
 14 date set in the notice for hearing protests.

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

1 place on the premises wherein the business authorized under
 2 the license is conducted, and such license shall be
 3 exhibited upon request to any authorized representative of
 4 the department or to any peace officer of the state of
 5 Montana.

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

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

18 (5) In the event of a major loss or damage to licensed
 19 premises by unforeseen natural causes or in case of
 20 expiration of lease of the licensed premises or in the event
 21 of eviction or increase of rent by the landlord (in case of
 22 rented licensed premises) or in case of proposed removal of
 23 license to premises as substantially suited for the retail
 24 liquor business as the premises vacated, the licensee may
 25 apply to the department for a transfer of the license to

1 different premises. The department may in its discretion
 2 permit a transfer in such cases if it appears to the
 3 department that such a transfer is required to do justice to
 4 the licensee applying for the transfer. The department
 5 shall in no event nor for any cause permit a transfer to
 6 different premises where the sanitary, health, and service
 7 facilities are less satisfactory than such facilities which
 8 exist or had existed at the premises from which the transfer
 9 is proposed to be made.

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

25 (7) Except as provided in subsections (2) through (6)

1 and 16-4-204, no license shall be transferred or sold nor
 2 shall it be used for any place of business not described in
 3 the license; provided, however, that such license may be
 4 subject to mortgage and other valid liens, in which event
 5 the name of the mortgagee, upon application to and approval
 6 of the department, must be endorsed on the license."

7 Section 28. 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, is \$200.

14 (6) The annual fee for ~~resort--retail--liquor~~ retail
 15 resort all-beverages licenses within a given resort area
 16 shall be \$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~~ retail public airport
 24 all-beverages license to-a-public--airport shall be \$800.
 25 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 29. Section 16-4-503, MCA, is amended to read:

11 "16-4-503. City and county licenses -- fees. The city
 12 council of any incorporated town or city or the county
 13 commissioners outside of any incorporated town or city may
 14 provide for the issuance of licenses to persons to whom a
 15 retail license has been issued under the provisions of this
 16 code and may fix license fees, not to exceed a sum equal to
 17 five-eighths of the fee for an a retail all-beverages
 18 license or 100% of the fee for a beer or beer-and-wine
 19 license collected by the department from such licensee under
 20 this code."

21 Section 30. Section 16-6-107, MCA, is amended to read:

22 "16-6-107. Disposal of forfeited alcoholic beverages
 23 -- report. (1) In every case in which a court or hearing
 24 examiner makes any order for the forfeiture of alcoholic
 25 beverages under any of the provisions of this code and in

1 every case in which any claimant to an alcoholic beverage
 2 under the provisions of 16-6-105 or 16-6-106 fails to
 3 establish his claim and right thereto, the alcoholic
 4 beverage in question and the packages in which the alcoholic
 5 beverage is kept shall be delivered to the department. The
 6 department shall determine the market value of each
 7 forfeited alcoholic beverage which is found to be suitable
 8 for sale in the state ~~liquor-stores~~ warehouse and shall pay
 9 the amount so determined to the state treasurer after
 10 deducting therefrom the expenses necessarily incurred by the
 11 department for transporting the forfeited alcoholic beverage
 12 to the state ~~liquor--warehouses~~ warehouse. The alcoholic
 13 beverage suitable for sale shall be taken into stock by the
 14 department and sold under the provisions of this code. All
 15 alcoholic beverages found to be unsuitable for sale in the
 16 state ~~liquor--stores~~ warehouse shall be destroyed by the
 17 department.

18 (2) In every case in which an alcoholic beverage is
 19 seized by a peace officer, it shall be his duty to make or
 20 cause to be made to the department a report in writing of
 21 the particulars of such seizure."

22 Section 31. Section 16-6-301, MCA, is amended to read:

23 "16-6-301. Transfer, sale, and possession of alcoholic
 24 beverages -- when unlawful. (1) Except as provided by this
 25 code, no person shall, within the state, by himself, his

1 clerk, servant, or agent, expose or keep for sale or,
 2 directly or indirectly or upon any pretense or upon any
 3 device, sell or offer to sell or, in consideration of the
 4 purchase or transfer of any property or for any other
 5 consideration or at the time of the transfer of any
 6 property, give to any other person any liquor.

7 (2) No person shall have or keep any liquor within the
 8 state which has not been purchased from the state of
 9 Montana. Nothing in this code shall prohibit any person
 10 entering this state from any other state or from any foreign
 11 country from having in his possession not to exceed 3 wine
 12 gallons of alcoholic liquor or beer which liquor or beer
 13 shall have been purchased in another state or foreign
 14 country, but no person claiming to have so entered the state
 15 shall at any time have in his possession more than 3 wine
 16 gallons of intoxicating liquor which shall not have been
 17 purchased from a state ~~liquor--store~~ licensee. This
 18 subsection shall not apply to the department or to the
 19 keeping or having of liquor by brewers, distillers, and
 20 other persons duly licensed by the United States for the
 21 manufacture of such liquor or to the keeping or having of
 22 any proprietary or patent medicines or of any extracts,
 23 essences, tinctures, or preparations where such having and
 24 keeping is authorized by this code.

25 (3) Nothing contained in this section shall apply to

1 the possession by a sheriff or his bailiff of liquor seized
 2 under execution or other judicial or extrajudicial process
 3 or to sales under executions or other judicial or
 4 extrajudicial process to the department or, in the case of
 5 beer, to a brewer, beer licensee, club licensee, or canteen
 6 licensee.

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

- 9 (a) attempt to purchase any alcoholic beverage;
- 10 (b) directly or indirectly or upon any pretense or
 11 device, purchase any alcoholic beverage; or

12 (c) in consideration of the sale or transfer of any
 13 property or for any other consideration or at the time of
 14 the transfer of any property, take or accept from any other
 15 person any alcoholic beverage."

16 Section 32. Section 16-6-303, MCA, is amended to read:

17 "16-6-303. Sale of liquor not purchased from state
 18 store warehouse forbidden -- penalty. It is unlawful for any
 19 licensee to sell or keep for sale or have on his premises
 20 for any purpose whatever any liquor except that ORIGINALLY
 21 purchased from the state liquor-store warehouse, and any
 22 licensee found in possession of or selling and keeping for
 23 sale any liquor which was not ORIGINALLY purchased from a
 24 the state liquor-store warehouse shall, upon conviction, be
 25 punished by a fine of not less than \$500 or more than

1 \$1,500, by imprisonment for not less than 3 months or more
 2 than 1 year, or by both such fine and imprisonment. If the
 3 department is satisfied that any such liquor was knowingly
 4 sold or kept for sale within the licensed premises by the
 5 licensee or by his agents, servants, or employees, the
 6 department shall immediately revoke the license. A LICENSEE
 7 MAY PURCHASE LIQUOR FROM ANOTHER LICENSEE IF THE LIQUOR WAS
 8 ORIGINALLY PURCHASED FROM THE STATE WAREHOUSE."

9 Section 33. Section 2-17-101, MCA, is amended to read:

10 "2-17-101. Allocation of space. (1) The department of
 11 administration shall periodically survey the needs of state
 12 agencies other than the university system and shall assign
 13 space in state buildings to such agencies. No state agency
 14 shall lease, rent, or purchase property for quarters without
 15 prior approval of the department.

16 (2) (a) The location of the chambers for the house of
 17 representatives shall be determined in the sole discretion
 18 of the house of representatives. The location of the
 19 chambers of the senate shall be determined in the sole
 20 discretion of the senate.

21 (b) The department of administration, with the advice
 22 of the capitol building and planning committee, shall
 23 allocate other space for the use of the legislature,
 24 including but not limited to space for committee rooms and
 25 legislative offices.

1 (3) For state agencies located in a city other than
 2 Helena, the department of administration shall consolidate
 3 the offices of these agencies in a single, central location
 4 within the city whenever such consolidation would result in
 5 a cost savings to the state while permitting sufficient
 6 space and facilities for the agencies. The department may
 7 purchase, lease, or acquire, by exchange or otherwise, land
 8 and buildings in the city to achieve consolidation. State
 9 ~~retail-liquor-stores-and-liquor-retail-agencies-are-exempted~~
 10 ~~from-such-consolidation."~~

11 Section 34. Section 2-18-203, MCA, is amended to read:
 12 "2-18-203. Review of positions -- change in
 13 classification. (1) The department shall continuously review
 14 all positions on a regular basis and adjust classifications
 15 to reflect significant changes in duties and
 16 responsibilities. In the event adjustments are to be made to
 17 the classification specifications or criteria utilized for
 18 allocating positions in the classification specifications
 19 affecting employees within a bargaining unit, the department
 20 shall consult with the representative of the bargaining unit
 21 prior to implementation of the adjustments, except for
 22 blue-collar, and teachers, ~~and liquor-store-clerks~~
 23 classification plans, which shall remain mandatory
 24 negotiable items under the Collective Bargaining Act.

25 (2) Employees and employee organizations will be given

1 the opportunity to appeal the allocation or reallocation of
 2 a position to a class. The grade assigned to a class is not
 3 an appealable subject under 2-18-1011 through 2-18-1013.

4 (3) The period of time for which retroactive pay for a
 5 classification appeal may be awarded under parts 1 through 3
 6 of this chapter or under 2-18-1011 through 2-18-1013 may not
 7 extend beyond 30 days prior to the date the appeal was
 8 filed. This provision shall not affect a classification or
 9 position appeal already in process on April 26, 1977."

10 Section 35. Section 2-18-303, MCA, is amended to read:
 11 "2-18-303. Procedures for utilizing pay schedules. (1)
 12 The pay schedules provided in 2-18-311 and 2-18-312 shall be
 13 implemented as follows:

14 (a) The pay schedule provided in 2-18-311 indicates
 15 the annual compensation for the fiscal year ending June 30,
 16 1986, for each grade and step for positions classified under
 17 the provisions of part 2 of this chapter.

18 (b) The pay schedule provided in 2-18-312 indicates
 19 the annual compensation for the fiscal year ending June 30,
 20 1987, for each grade and step for positions classified under
 21 the provisions of part 2 of this chapter.

22 (c) Each new employee shall advance from step 1 to
 23 step 2 of a grade after successfully completing 6 months of
 24 probationary service. The anniversary date of an employee
 25 shall be established at the end of the probationary period

1 in accordance with rules promulgated by the department.

2 (d) (i) The compensation of each employee on the first
3 day of the first pay period in fiscal year 1986 shall be
4 that amount which corresponds to the grade and step occupied
5 on the last day of the preceding fiscal year of 1985.

6 (ii) The compensation of each employee on the first day
7 of the first pay period in fiscal year 1987 shall be that
8 amount which corresponds to the grade and step occupied on
9 the last day of the fiscal year 1985.

10 (iii) In compliance with rules adopted to implement
11 this part, each employee is eligible on his anniversary date
12 to advance one step in the pay matrix for fiscal year 1987.
13 However, if the employee's anniversary date falls between
14 (inclusive) July 1 and the first day of the first pay period
15 of fiscal year 1987, he will advance one step on the first
16 day of that pay period.

17 (2) The pay schedules provided in 2-18-311 and
18 2-18-312 and the provisions of subsection (1) of this
19 section do not apply to those institutional teachers, liquor
20 store occupations, or and blue-collar occupations
21 compensated under the pay schedules provided in 2-18-313,
22 ~~2-18-314~~, or and 2-18-315.

23 (3) The pay schedules provided in 2-18-313, ~~2-18-314~~,
24 or and 2-18-315 shall be implemented as follows:

25 (a) (i) The pay schedules provided in 2-18-313

1 indicate the annual compensation for the contracted school
2 term for teachers employed by institutions under the
3 authority of the department of institutions for fiscal years
4 1986 and 1987.

5 (ii) The compensation of each teacher on the first day
6 of the first pay period in July, 1985, shall be that amount
7 which corresponds to his level of academic achievement and
8 the step occupied on June 30, 1985.

9 (iii) The compensation of each teacher on the first day
10 of the first pay period in July, 1986, shall be that amount
11 which corresponds to his level of achievement and the step
12 occupied on June 30, 1985.

13 ~~(b)(i) The pay schedules provided in 2-18-314~~
14 ~~indicate the maximum hourly compensation for fiscal years~~
15 ~~ending June 30, 1986, and June 30, 1987, for those employees~~
16 ~~in liquor store occupations who have collectively bargained~~
17 ~~separate classification and pay plans.~~

18 ~~(ii) The compensation of each employee on the first day~~
19 ~~of the first pay period in fiscal year 1986 or 1987, as the~~
20 ~~case may be, shall be that amount which corresponds to that~~
21 ~~grade occupied on the last day of the preceding fiscal year.~~

22 ~~(c)(b)~~ (i) The pay schedules provided in 2-18-315
23 indicate the maximum hourly compensation for fiscal years
24 ending June 30, 1986, and June 30, 1987, for employees in
25 apprentice trades and crafts and other blue-collar

1 occupations recognized in the state blue-collar
2 classification plan who are members of units that have
3 collectively bargained separate classification and pay
4 plans.

5 (ii) The compensation of each employee on the first day
6 of the first pay period in fiscal year 1986 or 1987, as the
7 case may be, shall be that amount which corresponds to that
8 grade occupied on the last day of the preceding fiscal year.

9 (4) (a) (i) No member of a bargaining unit may receive
10 the amounts indicated in the respective pay schedules
11 provided in 2-18-311 through 2-18-313 and 2-18-315 until the
12 bargaining unit of which he is a member ratifies a
13 completely integrated collective bargaining agreement
14 covering the biennium ending June 30, 1987.

15 (ii) In the event that negotiation and ratification of
16 a completely integrated collective bargaining agreement as
17 required by subsection (4)(a)(i) of this section are not
18 completed by July 1, 1985, retroactivity to that date may be
19 negotiated.

20 (iii) In the event that negotiation and ratification of
21 a completely integrated collective bargaining agreement as
22 required by subsection (4)(a)(i) of this section are not
23 completed by July 1, 1985, members of the bargaining unit
24 involved will continue to receive the compensation they were
25 receiving as of June 30, 1985.

1 (b) Methods of administration not inconsistent with
2 the purpose of this part and necessary to properly implement
3 the pay schedules provided in 2-18-313 through and 2-18-315
4 may be provided for in collective bargaining agreements.

5 (5) The current wage or salary of an employee shall
6 not be reduced by the implementation of the pay schedules
7 provided for in 2-18-311 through 2-18-313 and 2-18-315.

8 (6) The department may authorize a separate pay
9 schedule for medical doctors if the rates provided in
10 2-18-311 and 2-18-312 are not sufficient to attract and
11 retain fully licensed and qualified physicians at the state
12 institutions.

13 (7) The department may develop programs which will
14 enable the department to mitigate problems associated with
15 difficult recruitment, retention, transfer, or other
16 exceptional circumstances. Insofar as the program may apply
17 to employees within a collective bargaining unit, it shall
18 be a negotiable subject under 39-31-305."

19 Section 36. Section 2-18-304, MCA, is amended to read:
20 "2-18-304. Longevity allowance. (1) In addition to the
21 compensation provided for in 2-18-311, 2-18-312, 2-18-313,
22 ~~2-18-314~~, or 2-18-315, each employee who has completed 5
23 years of uninterrupted state service shall receive the
24 larger of \$10 a month or 10% of the difference between the
25 base compensation for his grade and step (where applicable)

1 in accordance with rules promulgated by the department.

2 (d) (i) The compensation of each employee on the first
3 day of the first pay period in fiscal year 1986 shall be
4 that amount which corresponds to the grade and step occupied
5 on the last day of the preceding fiscal year of 1985.

6 (ii) The compensation of each employee on the first day
7 of the first pay period in fiscal year 1987 shall be that
8 amount which corresponds to the grade and step occupied on
9 the last day of the fiscal year 1985.

10 (iii) In compliance with rules adopted to implement
11 this part, each employee is eligible on his anniversary date
12 to advance one step in the pay matrix for fiscal year 1987.
13 However, if the employee's anniversary date falls between
14 (inclusive) July 1 and the first day of the first pay period
15 of fiscal year 1987, he will advance one step on the first
16 day of that pay period.

17 (2) The pay schedules provided in 2-18-311 and
18 2-18-312 and the provisions of subsection (1) of this
19 section do not apply to those institutional teachers, liquor
20 store occupations, or and blue-collar occupations
21 compensated under the pay schedules provided in 2-18-313,
22 2-18-314, or and 2-18-315.

23 (3) The pay schedules provided in 2-18-313, 2-18-314,
24 or and 2-18-315 shall be implemented as follows:

25 (a) (i) The pay schedules provided in 2-18-313

1 indicate the annual compensation for the contracted school
2 term for teachers employed by institutions under the
3 authority of the department of institutions for fiscal years
4 1986 and 1987.

5 (ii) The compensation of each teacher on the first day
6 of the first pay period in July, 1985, shall be that amount
7 which corresponds to his level of academic achievement and
8 the step occupied on June 30, 1985.

9 (iii) The compensation of each teacher on the first day
10 of the first pay period in July, 1986, shall be that amount
11 which corresponds to his level of achievement and the step
12 occupied on June 30, 1985.

13 ~~(b) (i) The pay schedules provided in 2-18-314~~
14 ~~indicate the maximum hourly compensation for fiscal years~~
15 ~~ending June 30, 1986, and June 30, 1987, for those employees~~
16 ~~in liquor store occupations who have collectively bargained~~
17 ~~separate classification and pay plans.~~

18 ~~(ii) The compensation of each employee on the first day~~
19 ~~of the first pay period in fiscal year 1986 or 1987, as the~~
20 ~~case may be, shall be that amount which corresponds to that~~
21 ~~grade occupied on the last day of the preceding fiscal year.~~

22 ~~(c) (b) (i) The pay schedules provided in 2-18-315~~
23 ~~indicate the maximum hourly compensation for fiscal years~~
24 ~~ending June 30, 1986, and June 30, 1987, for employees in~~
25 ~~apprentice trades and crafts and other blue-collar~~

1 occupations recognized in the state blue-collar
2 classification plan who are members of units that have
3 collectively bargained separate classification and pay
4 plans.

5 (ii) The compensation of each employee on the first day
6 of the first pay period in fiscal year 1986 or 1987, as the
7 case may be, shall be that amount which corresponds to that
8 grade occupied on the last day of the preceding fiscal year.

9 (4) (a) (i) No member of a bargaining unit may receive
10 the amounts indicated in the respective pay schedules
11 provided in 2-18-311 through 2-18-313 and 2-18-315 until the
12 bargaining unit of which he is a member ratifies a
13 completely integrated collective bargaining agreement
14 covering the biennium ending June 30, 1987.

15 (ii) In the event that negotiation and ratification of
16 a completely integrated collective bargaining agreement as
17 required by subsection (4)(a)(i) of this section are not
18 completed by July 1, 1985, retroactivity to that date may be
19 negotiated.

20 (iii) In the event that negotiation and ratification of
21 a completely integrated collective bargaining agreement as
22 required by subsection (4)(a)(i) of this section are not
23 completed by July 1, 1985, members of the bargaining unit
24 involved will continue to receive the compensation they were
25 receiving as of June 30, 1985.

1 (b) Methods of administration not inconsistent with
2 the purpose of this part and necessary to properly implement
3 the pay schedules provided in 2-18-313 through and 2-18-315
4 may be provided for in collective bargaining agreements.

5 (5) The current wage or salary of an employee shall
6 not be reduced by the implementation of the pay schedules
7 provided for in 2-18-311 through 2-18-313 and 2-18-315.

8 (6) The department may authorize a separate pay
9 schedule for medical doctors if the rates provided in
10 2-18-311 and 2-18-312 are not sufficient to attract and
11 retain fully licensed and qualified physicians at the state
12 institutions.

13 (7) The department may develop programs which will
14 enable the department to mitigate problems associated with
15 difficult recruitment, retention, transfer, or other
16 exceptional circumstances. Insofar as the program may apply
17 to employees within a collective bargaining unit, it shall
18 be a negotiable subject under 39-31-305."

19 Section 36. Section 2-18-304, MCA, is amended to read:

20 "2-18-304. Longevity allowance. (1) In addition to the
21 compensation provided for in 2-18-311, 2-18-312, 2-18-313,
22 ~~2-18-314~~ or 2-18-315, each employee who has completed 5
23 years of uninterrupted state service shall receive the
24 larger of \$10 a month or 10% of the difference between the
25 base compensation for his grade and step (where applicable)

1 and the base compensation for the next highest grade and
 2 corresponding step (where applicable) multiplied by the
 3 number of completed, contiguous 5-year periods of
 4 uninterrupted state service. Service to the state is not
 5 interrupted by authorized leaves of absence.

6 (2) (a) For the purpose of determining years of
 7 service under this section, an employee must be credited
 8 with 1 year of service for each period of:

9 (i) 2,080 hours of service following his date of
 10 employment; an employee must be credited with 80 hours of
 11 service for each biweekly pay period in which he is in a pay
 12 status or on an authorized leave of absence without pay,
 13 regardless of the number of hours of service in the pay
 14 period; or

15 (ii) 12 uninterrupted calendar months following his
 16 date of employment in which he was in a pay status or on an
 17 authorized leave of absence without pay, regardless of the
 18 number of hours of service in any one month. An employee of
 19 a school at a state institution or the university system
 20 must be credited with 1 year of service if he is employed
 21 for an entire academic year.

22 (b) State agencies, other than the university system
 23 and a school at a state institution, shall use the method
 24 provided in subsection (2)(a)(i) to calculate years of
 25 service under this section."

1 Section 37. Section 2-18-305, MCA, is amended to read:

2 "2-18-305. Allocation between wages and group
 3 benefits. (1) The dollar amounts shown in the respective pay
 4 schedules provided in 2-18-311, 2-18-312, 2-18-313,
 5 ~~2-18-314~~, or 2-18-315, as the case may be, represent the
 6 maximum amount allocated by the state for wages and group
 7 benefits, exclusive of longevity as defined in 2-18-304.
 8 Except as provided in subsection (2) of this section, that
 9 amount specifically allocated for group benefits shall be
 10 determined by 2-18-703. An employee who elects not to be
 11 covered by a state employee group benefit plan will receive
 12 as wages the amount shown in the appropriate pay schedule
 13 less the state contribution for group benefits as determined
 14 by 2-18-703.

15 (2) Employees may, through collective bargaining,
 16 determine the allocation of the amounts shown in the pay
 17 schedules provided in 2-18-311, 2-18-312, 2-18-313,
 18 ~~2-18-314~~ or 2-18-315, as the case may be, between wages and
 19 group benefits, except that in no case may the group
 20 benefits allocation be less than the amounts provided in
 21 2-18-703."

22 NEW SECTION. Section 38. Closing of existing state
 23 retail liquor stores. The department of revenue shall close
 24 all existing state retail liquor stores, including agency
 25 stores, on October 1, 1987.

1 NEW SECTION. Section 39. Extension of authority. Any
2 existing authority of the department of revenue or the
3 department of administration to make rules on the subject of
4 the provisions of this act is extended to the provisions of
5 this act.

6 NEW SECTION. Section 40. Repealer. Sections 2-18-314,
7 16-2-101, 16-2-104 through, 16-2-105, 16-2-107, 16-2-301
8 THROUGH 16-2-303, and 16-3-307, MCA, are repealed.

9 NEW SECTION. Section 41. Effective dates. (1)
10 Sections ~~39, 40~~ 38, 39, and this section are effective on
11 passage and approval.

12 (2) The remaining sections are effective October 1,
13 1987.

-End-

1 and the base compensation for the next highest grade and
 2 corresponding step (where applicable) multiplied by the
 3 number of completed, contiguous 5-year periods of
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 17 schedules provided in 2-18-311, 2-18-312, 2-18-313,
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 19 group benefits, except that in no case may the group
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-End-