

HB 562 INTRODUCED BY SIMON, ET AL.
REMOVE THE STATE FROM THE STATE LIQUOR STORE
BUSINESS

1/31 INTRODUCED
1/31 REFERRED TO BUSINESS & LABOR
2/02 FISCAL NOTE REQUESTED
2/06 HEARING
2/07 FISCAL NOTE RECEIVED
2/09 SPONSOR FISCAL NOTE REQUESTED
2/10 SPONSOR FISCAL NOTE RECEIVED
2/11 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/14 2ND READING NOT PASSED 62 32

1 ⁵⁶² HOUSE BILL NO. *562*
 2 INTRODUCED BY *James Robert Fitz Ramsey*
 3 *Mark David ...*

4 A BILL FOR AN ACT ENTITLED "AN ACT WITHDRAWING THE STATE
 5 FROM THE STATE LIQUOR STORE BUSINESS; PROVIDING FOR THE SALE
 6 OF STATE LIQUOR STORES; CREATING A PACKAGE STORE LICENSE;
 7 PERMITTING THE DEPARTMENT OF REVENUE TO OPERATE A STATE
 8 WAREHOUSE FOR SALES OF LIQUOR AND WINE TO CERTAIN LICENSEES;
 9 CLARIFYING TERMINOLOGY; AMENDING SECTIONS 2-17-101,
 10 2-18-203, 2-18-303 THROUGH 2-18-305, 16-1-103, 16-1-105,
 11 16-1-106, 16-1-202, 16-1-301 THROUGH 16-1-304, 16-1-401,
 12 16-1-402, 16-1-404, 16-2-103, 16-2-106 THROUGH 16-2-108,
 13 16-2-203, 16-2-302, 16-2-303, 16-3-103, 16-3-106, 16-3-401,
 14 16-4-201, 16-4-202, 16-4-204, 16-4-205, 16-4-207 THROUGH
 15 16-4-209, 16-4-501, 16-4-503, 16-6-107, 16-6-301, AND
 16 16-6-303, MCA; REPEALING SECTIONS 2-18-314, 16-2-101,
 17 16-2-104, 16-2-105, 16-2-201, 16-2-301, AND 16-3-307, MCA;
 18 AND PROVIDING EFFECTIVE DATES."

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 21 NEW SECTION. Section 1. Package store license. (1)
 22 Except as provided in subsections (2) and (3), an applicant
 23 who meets the requirements of this code must be issued a
 24 license to purchase liquor and table wine from the state
 25 warehouse and to sell liquor, beer, and table wine at retail

1 for off-premises consumption only. Such a license is called
 2 a package store license.

3 (2) Except in a city or town of 2,500 inhabitants or
 4 less:

5 (a) a license may not be granted to an applicant that
 6 operates, manages, or directly or indirectly owns a
 7 controlling interest in a grocery store or supermarket of
 8 any size that is within the same structure and uses the same
 9 entrance as the premises where the license will be
 10 exercised; and

11 (b) at least 60% of the gross sales for any 3-month
 12 period from a business licensed under this section must be
 13 derived from the sale of alcoholic beverages.

14 (3) Except as provided in [section 40], no license may
 15 be issued under this section until January 1, 1990.

16 Section 2. Section 2-17-101, MCA, is amended to read:
 17 "2-17-101. Allocation of space. (1) The department of
 18 administration shall periodically survey the needs of state
 19 agencies other than the university system and shall assign
 20 space in state buildings to such agencies. No state agency
 21 shall lease, rent, or purchase property for quarters without
 22 prior approval of the department.

23 (2) (a) The location of the chambers for the house of
 24 representatives shall be determined in the sole discretion
 25 of the house of representatives. The location of the



1 chambers of the senate shall be determined in the sole
2 discretion of the senate.

3 (b) The department of administration, with the advice
4 of the capitol building and planning committee, shall
5 allocate other space for the use of the legislature,
6 including but not limited to space for committee rooms and
7 legislative offices.

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

18 Section 3. Section 2-18-203, MCA, is amended to read:

19 "2-18-203. Review of positions -- change in
20 classification. (1) The department shall continuously review
21 all positions on a regular basis and adjust classifications
22 to reflect significant changes in duties and
23 responsibilities. In the event adjustments are to be made to
24 the classification specifications or criteria utilized for
25 allocating positions in the classification specifications

1 affecting employees within a bargaining unit, the department
2 shall consult with the representative of the bargaining unit
3 prior to implementation of the adjustments, except for
4 blue-collar, and teachers, ~~and liquor store clerks~~
5 classification plans, which shall remain mandatory
6 negotiable items under the Collective Bargaining Act.

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

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

17 Section 4. Section 2-18-303, MCA, is amended to read:

18 "2-18-303. Procedures for utilizing pay schedules. (1)
19 The pay schedules provided in 2-18-311 and 2-18-312 shall be
20 implemented as follows:

21 (a) The pay schedule provided in 2-18-311 indicates
22 the annual compensation for the fiscal year ending June 30,
23 1986, for each grade and step for positions classified under
24 the provisions of part 2 of this chapter.

25 (b) The pay schedule provided in 2-18-312 indicates

1 the annual compensation for the fiscal year ending June 30,
2 1987, for each grade and step for positions classified under
3 the provisions of part 2 of this chapter.

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

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

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

17 (iii) In compliance with rules adopted to implement
18 this part, each employee is eligible on his anniversary date
19 to advance one step in the pay matrix for fiscal year 1987.
20 However, if the employee's anniversary date falls between
21 (inclusive) July 1 and the first day of the first pay period
22 of fiscal year 1987, he will advance one step on the first
23 day of that pay period.

24 (2) The pay schedules provided in 2-18-311 and
25 2-18-312 and the provisions of subsection (1) of this

1 section do not apply to those institutional teachers, liquor
2 store---occupations,---or and blue-collar occupations
3 compensated under the pay schedules provided in 2-18-313,
4 ~~2-18-314~~ or and 2-18-315.

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

7 (a) (i) The pay schedules provided in 2-18-313
8 indicate the annual compensation for the contracted school
9 term for teachers employed by institutions under the
10 authority of the department of institutions for fiscal years
11 1986 and 1987.

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

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

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

25 ~~(ii)---The compensation of each employee on the first day~~

~~of the first pay period in fiscal year 1986 or 1987 as the case may be, shall be that amount which corresponds to that grade occupied on the last day of the preceding fiscal year.~~

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

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

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

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

negotiated.

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

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

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

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

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

1 Section 5. Section 2-18-304, MCA, is amended to read:

2 "2-18-304. Longevity allowance. (1) In addition to the
3 compensation provided for in 2-18-311, 2-18-312, 2-18-313,
4 ~~2-18-314~~, or 2-18-315, each employee who has completed 5
5 years of uninterrupted state service shall receive the
6 larger of \$10 a month or 10% of the difference between the
7 base compensation for his grade and step (where applicable)
8 and the base compensation for the next highest grade and
9 corresponding step (where applicable) multiplied by the
10 number of completed, contiguous 5-year periods of
11 uninterrupted state service. Service to the state is not
12 interrupted by authorized leaves of absence.

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

16 (i) 2,080 hours of service following his date of
17 employment; an employee must be credited with 80 hours of
18 service for each biweekly pay period in which he is in a pay
19 status or on an authorized leave of absence without pay,
20 regardless of the number of hours of service in the pay
21 period; or

22 (ii) 12 uninterrupted calendar months following his
23 date of employment in which he was in a pay status or on an
24 authorized leave of absence without pay, regardless of the
25 number of hours of service in any one month. An employee of

1 a school at a state institution or the university system
2 must be credited with 1 year of service if he is employed
3 for an entire academic year.

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

8 Section 6. Section 2-18-305, MCA, is amended to read:

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

22 (2) Employees may, through collective bargaining,
23 determine the allocation of the amounts shown in the pay
24 schedules provided in 2-18-311, 2-18-312, 2-18-313,
25 ~~2-18-314~~, or 2-18-315, as the case may be, between wages and

1 group benefits, except that in no case may the group
2 benefits allocation be less than the amounts provided in
3 2-18-703."

4 Section 7. Section 16-1-103, MCA, is amended to read:

5 "16-1-103. Policy as to retail sale of liquor. It is
6 the policy of the state that it is necessary to further
7 regulate and control the sale and distribution of alcoholic
8 beverages within the state and to ensure the entire control
9 of the sale of liquor in the department of revenue. It is
10 advisable and necessary, ~~in addition to the operation of the~~
11 ~~state liquor stores now provided by law~~, that the department
12 be empowered and authorized to grant licenses to persons
13 qualified under this code to sell liquor purchased by them
14 at the state liquor stores warehouse at retail the posted
15 price in accordance with this code and under rules
16 promulgated by the department and under its strict
17 supervision and control and to provide severe penalty for
18 the sale of liquor except ~~by and in state liquor stores and~~
19 ~~by persons licensed under this code.~~ The restrictions,
20 regulations, and provisions contained in this code are
21 enacted by the legislature for the protection, health,
22 welfare, and safety of the people of the state."

23 Section 8. Section 16-1-105, MCA, is amended to read:

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

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

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

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

12 ~~{1} "Agency agreement" means an agreement between the~~
13 ~~department and a person appointed to sell liquor as a~~
14 ~~commission merchant rather than as an employee.~~

15 ~~{2}~~ (1) "Alcohol" means ethyl alcohol, also called
16 ethanol, or the hydrated oxide of ethyl.

17 ~~{3}~~ (2) "Alcoholic beverage" means a compound produced
18 and sold for human consumption as a drink that contains more
19 than .5% of alcohol by volume.

20 ~~{4}~~ (3) "Beer" means a malt beverage containing not
21 more than 7% of alcohol by weight.

22 ~~{5}~~ (4) "Beer importer" means a person other than a
23 brewer who imports malt beverages.

24 ~~{6}~~ (5) "Brewer" means a person who produces malt
25 beverages.

1 {7}(6) "Department" means the department of revenue.
 2 {8}(7) "Immediate family" means a spouse, dependent
 3 children, or dependent parents.
 4 {9}(8) "Import" means to transfer beer or table wine
 5 from outside the state of Montana into the state of Montana.
 6 {10}(9) "Industrial use" means a use described as
 7 industrial use by the federal Alcohol Administration Act and
 8 the federal rules and regulations of 27 CFR.
 9 {11}(10) "Liquor" means an alcoholic beverage except
 10 beer and table wine.
 11 {12}(11) "Malt beverage" means an alcoholic beverage
 12 made by the fermentation of an infusion or decoction, or a
 13 combination of both, in potable brewing water, of malted
 14 barley with or without hops or their parts or their products
 15 and with or without other malted cereals and with or without
 16 the addition of unmalted or prepared cereals, other
 17 carbohydrates, or products prepared therefrom and with or
 18 without other wholesome products suitable for human food
 19 consumption.
 20 {13}(12) "Package" means a container or receptacle used
 21 for holding an alcoholic beverage.
 22 (13) "Package store" means a store that sells liquor,
 23 beer, and table wine at retail for off-premises consumption
 24 only.
 25 (14) "Posted price" means the retail wholesale price of

1 paid by licensees for liquor and table wine purchased from
 2 the state warehouse. The term includes the price as fixed
 3 and determined by the department, costs incurred in shipping
 4 the liquor and table wine to the warehouse, and in--addition
 5 thereto--an--excise-and-license-tax-as any taxes provided in
 6 this code. The term does not include costs incurred in
 7 shipping the liquor or table wine to the retailer.
 8 (15) "Proof gallon" means a U.S. gallon of liquor at 60
 9 degrees on the Fahrenheit scale that contains 50% of alcohol
 10 by volume.
 11 (16) "Public place" means a place, building, or
 12 conveyance to which the public has or may be permitted to
 13 have access and any place of public resort.
 14 (17) "Retail all-beverages license" includes a retail
 15 tavern all-beverages license, retail resort all-beverages
 16 license, or retail public airport all-beverages license but
 17 does not include a package store license.
 18 {17}(18) "Rules" means rules published by the
 19 department pursuant to this code.
 20 {18}-"State--liquor-facility"-means-a-facility-owned-or
 21 under--control--of--the--department--for--the--purpose--of
 22 receiving,--storing,--transporting,--or--selling--alcoholic
 23 beverages-
 24 {19}-"State-liquor-store"-means-a-retail-store-operated
 25 by-the-department-in--accordance--with--this--code--for--the

~~purpose-of-selling-liquor-~~

(19) "State warehouse" means the state warehouse operated by the department through which a package store licensee and a retail all-beverages licensee with a state warehouse purchasing endorsement may purchase liquor and table wines.

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

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

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

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

code.

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

Section 10. Section 16-1-202, MCA, is amended to read:

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

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

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

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

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

16 Section 11. Section 16-1-301, MCA, is amended to read:

17 "16-1-301. Administration of code. The department
 18 shall have the powers and duties to administer the Montana
 19 Alcoholic Beverage Code~~7--including--the--general--control,~~
 20 ~~management,~~~~and-supervision-of-all-state-liquor-stores."~~

21 Section 12. Section 16-1-302, MCA, is amended to read:

22 "16-1-302. Functions, powers, and duties of
 23 department. (1) The department shall have the following
 24 functions, duties, and powers:

25 (1)(a) to buy, import, have in its possession for

1 sale, and sell through the state warehouse liquors and table
 2 wine to package store licensees and retail tavern
 3 all-beverages licensees with state warehouse purchasing
 4 endorsements in the manner set forth in this code;

5 (2)(b) to control the possession, sale, and delivery
 6 of liquors in accordance with the provisions of this code;

7 (3)~~--to-determine-the-municipalities-within-which-state~~
 8 ~~liquor-stores-shall-be-established-throughout-the-state--and~~
 9 ~~the--situation-of-the-stores-within-every-such-municipality;~~

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

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

16 (6)(d) to employ ~~store--managers~~ a state warehouse
 17 manager and ~~also~~ every officer, investigator, clerk, or
 18 other employee required for the operation or carrying out of
 19 this code and to dismiss the same, fix their salaries or
 20 remuneration, assign them their title, define their
 21 respective duties and powers, and to engage the service of
 22 experts and persons engaged in the practice of a profession,
 23 if deemed expedient;

24 (7)(e) to determine the nature, form, and capacity of
 25 all packages to be used for containing liquor kept or sold

1 under this code;

2 ~~f8)(f)~~ to grant and issue licenses under and in
3 pursuance to this code;

4 ~~f9)(g)~~ without in any way limiting or being limited by
5 the foregoing, to do all such things as are deemed necessary
6 or advisable by the department for the purpose of carrying
7 into effect the provisions of this code or the rules made
8 thereunder of the department.

9 (2) The department may operate only one state
10 warehouse under this code."

11 Section 13. Section 16-1-303, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

25 ~~(i)(f)~~ prescribing the manner of giving and serving

1 notices required by this code or the rules thereunder;

2 {f}(g) prescribing the fees payable in respect of

3 permits and licenses issued under this code for which no

4 fees are prescribed in this code and prescribing the fees

5 for anything done or permitted to be done under the rules

6 made thereunder;

7 {f}(h) prescribing, subject to the provisions of this

8 code, the conditions and qualifications necessary for the

9 obtaining of a liquor or beer license and the books and

10 records to be kept and the returns to be made by the

11 licensees and providing for the inspection of such licensed

12 premises;

13 {f}(i) specifying and describing the place and the

14 manner in which liquor or beer may be lawfully kept or

15 stored;

16 {f}(j) specifying and regulating the time and periods

17 when and the manner, methods, and means by which vendors and

18 brewers shall deliver liquor under this code and the time

19 and periods when and the manner, methods, and means by which

20 liquor, under this code, may be lawfully conveyed or

21 carried;

22 {f}(k) governing the conduct, management, and

23 equipment of any premises licensed to sell liquor or beer

24 under this code;

25 {f}(l) providing for the imposition and collection of

1 taxes and making rules respecting returns, accounting, and

2 payment of the taxes to the department.

3 (3) Whenever it is provided in this code that any act,

4 matter, or thing may be done if permitted or authorized by

5 the rules or may be done in accordance with the rules or as

6 provided by the rules, the department, subject to the

7 restrictions set out in subsection (1) hereof, shall have

8 the power to make rules respecting such act, matter, or

9 thing."

10 Section 14. Section 16-1-304, MCA, is amended to read:

11 "16-1-304. Prohibited acts within division. (1) No

12 officer or employee of the liquor division~~-including those~~

13 ~~engaged in the sale of liquor at the various state liquor or~~

14 ~~table wine stores,~~ may be directly or indirectly interested

15 or engaged in any other business or undertaking dealing in

16 liquor or table wine, whether as owner, part owner, partner,

17 member of syndicate, shareholder, agent, or employee and

18 whether for his own benefit or in a fiduciary capacity for

19 some other person.

20 (2) No member or employee of the division or any

21 employee of the state may solicit or receive directly or

22 indirectly any commission, remuneration, or gift whatsoever

23 from any person or corporation having sold, selling, or

24 offering liquor or table wine for sale to the state or

25 division pursuant to this code.

1 (3) No person selling or offering for sale to or
 2 purchasing liquor or table wine from the state liquor
 3 division may either directly or indirectly offer to pay any
 4 commission, profit, or remuneration or make any gift to any
 5 member or employee of the division, to any employee of the
 6 state, or to anyone on behalf of such member or employee.

7 (4) The prohibition contained in subsection (3) of
 8 this section does not prohibit the division from receiving
 9 samples of liquor or table wine for the purpose of chemical
 10 testing, subject to the following limitations:

11 (a) Each manufacturer, distiller, compounder,
 12 rectifier, importer, or wholesale distributor or any other
 13 person, firm, or corporation proposing to sell any liquor or
 14 table wine to the Montana liquor division shall submit,
 15 without cost to the division prior to the original purchase,
 16 an analysis of each brand and may submit a representative
 17 sample not exceeding 25 fluid ounces of such merchandise to
 18 the division.

19 (b) When a brand of liquor or table wine has been
 20 accepted for testing by the division, the division shall
 21 forward the sample, unopened and in its entirety, to a
 22 qualified chemical laboratory for analysis.

23 (c) The division shall maintain written records of all
 24 samples received. The records shall show the brand name,
 25 amount and from whom received, date received, the laboratory

1 or chemist to whom forwarded, the division's action on the
 2 brand, and the person to whom delivered or other final
 3 disposition of the sample.

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

15 Section 15. Section 16-1-401, MCA, is amended to read:

16 "16-1-401. Liquor excise tax. (1) The department is
 17 hereby authorized and directed to charge, receive, and
 18 collect at the time of the sale and delivery of any liquor
 19 as authorized under any provision of the laws of the state
 20 of Montana an excise tax at the rate of:

21 ~~(a)--16% of the retail selling price on all liquor sold~~
 22 ~~and--delivered--in the state by a company that manufactured,~~
 23 ~~distilled, rectified, bottled, or processed, and--sold--more~~
 24 ~~than--200,000--proof--gallons--of--liquor--nationwide--in the~~
 25 ~~calendar year preceding imposition of the--tax--pursuant--to~~

1 this-section;

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

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

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

14 "16-1-402. Payment of excise tax by carriers. (1)
15 Every airline or railroad operating in the state of Montana
16 and selling liquor purchased outside this state for
17 consumption within this state shall pay to the department
18 the excise taxes and state markup which would be applicable
19 to such liquor if purchased from the state liquor store
20 warehouse.

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

- 24 (a) the average liquor used per departure;
25 (b) the number of departures from Montana on which

1 liquor is served;

2 (c) the ratio of Montana revenue passenger miles to
3 system revenue passenger miles; and

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

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

8 Section 17. Section 16-1-404, MCA, is amended to read:

9 "16-1-404. License tax on liquor -- amount --
10 distribution of proceeds. (1) The department is hereby
11 authorized and directed to charge, receive, and collect at
12 the time of sale and delivery of any liquor under any
13 provisions of the laws of the state of Montana a license tax
14 at the rate of:

15 (a) ~~10%~~ of the retail selling price on all liquor sold
16 and delivered in the state by a company that manufactured,
17 distilled, rectified, bottled, or processed, and sold more
18 than 200,000 proof gallons of liquor nationwide in the
19 calendar year preceding imposition of the tax pursuant to
20 this section;

21 (b) ~~8.6%~~ of the retail selling price on all liquor
22 sold and delivered in the state by a company that
23 manufactured, distilled, rectified, bottled, or processed,
24 and sold not more than 200,000 proof gallons of liquor
25 nationwide in the calendar year preceding imposition of the

1 ~~tax pursuant to this section~~ 65 cents a liter.

2 (2) The license tax shall be charged and collected on
3 all liquor brought into the state and taxed by the
4 department. ~~The retail selling price shall be computed by~~
5 ~~adding to the cost of said liquor the state markup as~~
6 ~~designated by the department.~~ The license tax shall be
7 figured in the same manner as the state excise tax and shall
8 be in addition to said state excise tax. The department
9 shall retain in a separate account the amount of the license
10 tax so received. Thirty percent of these revenues are
11 statutorily appropriated, as provided in 17-7-502, to the
12 department and shall be allocated to the counties according
13 to the amount of liquor purchased in each county to be
14 distributed to the incorporated cities and towns, as
15 provided in subsection (3). Four and one-half percent of
16 these revenues are statutorily appropriated, as provided in
17 17-7-502, and shall be allocated to the counties according
18 to the amount of liquor purchased in each county, and this
19 money may be used for county purposes. The remaining
20 revenues shall be deposited in the state special revenue
21 fund to the credit of the department of institutions for the
22 treatment, rehabilitation, and prevention of alcoholism.
23 Provided, however, in the case of purchases of liquor by a
24 retail liquor licensee for use in his business, the
25 department shall make such regulations as are necessary to

1 apportion that proportion of license tax so generated to the
2 county where the licensed establishment is located, for use
3 as provided in 16-1-405. That proportion of the license tax
4 is statutorily appropriated, as provided in 17-7-502, to the
5 department, which shall pay quarterly to each county
6 treasurer the proportion of the license tax due each county
7 to be allocated to the incorporated cities and towns of the
8 county.

9 (3) The license tax proceeds allocated to the county
10 under subsection (2) for use by cities and towns shall be
11 distributed by the county treasurer to the incorporated
12 cities and towns within 30 days of receipt from the
13 department. The distribution of funds to the cities and
14 towns shall be based on the proportion that the gross sale
15 of liquor in each city or town is to the gross sale of
16 liquor in all of the cities and towns of the county.

17 (4) The license tax proceeds that are allocated to the
18 department of institutions for the treatment,
19 rehabilitation, and prevention of alcoholism shall be
20 credited quarterly to the department of institutions. The
21 legislature may appropriate a portion of the license tax
22 proceeds to support alcohol programs. The remainder shall be
23 distributed as provided in 53-24-206."

24 Section 18. Section 16-2-103, MCA, is amended to read:

25 "16-2-103. Duplicate invoices of sales required. (1)

1 The state ~~liquor-store~~ warehouse shall, upon each sale of
 2 liquor to any licensee, issue a duplicate invoice of the
 3 liquor purchased, as provided by the department, a copy of
 4 which shall be delivered to the licensee and one copy
 5 retained at such store warehouse.

6 (2) The invoice shall show the date of purchase, name
 7 of employee making the sale, the quantity of each kind of
 8 liquor purchased, the price paid therefor, the name of the
 9 licensee, and the number of the license, with such other
 10 information as may be required by the department.

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

16 Section 19. Section 16-2-106, MCA, is amended to read:

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

24 Section 20. Section 16-2-107, MCA, is amended to read:

25 "16-2-107. No open liquor container or liquor

1 consumption on premises of state package store. No officer,
 2 ~~clerk, or agent of the department~~ person owning or employed
 3 in a state package store shall allow any liquor container to
 4 be opened on the premises of ~~a-state~~ the store or allow any
 5 liquor to be consumed on the premises of ~~a-state~~ the store,
 6 nor shall any person open a liquor container or consume any
 7 liquor on such premises."

8 Section 21. 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 22. Section 16-2-203, MCA, is amended to read:

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

9 Section 23. Section 16-2-302, MCA, is amended to read:

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

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

16 "16-2-303. Department prohibited from engaging in
17 unfair competition. (1) The department, in engaging in the
18 retail wholesale sale of table wine to licensees, is subject
19 to the provisions of Title 30, chapter 14, parts 1 and 2,
20 except those provisions relating to enforcement and
21 penalties.

22 (2) A person aggrieved by a violation of this section
23 by the department may maintain an action to enjoin the
24 alleged violation and for the recovery of damages in the
25 district court of the district where the conduct complained

1 of occurred or where the department's principal office is
2 located."

3 Section 25. Section 16-3-103, MCA, is amended to read:

4 "16-3-103. Unlawful sales solicitation or advertising
5 -- exceptions. (1) No person within the state shall:

6 (a) canvass for, receive, take, or solicit orders for
7 the purchase or sale of any liquor or act as agent or
8 intermediary for the sale or purchase of any liquor or hold
9 himself out as such agent or intermediary unless permitted
10 to do so under rules that shall be promulgated by the
11 department to govern such activities;

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

16 (c) exhibit, publish, or display or permit to be
17 exhibited, published, or displayed any form of advertisement
18 or any other announcement, publication, or price list of or
19 concerning liquor or where or from whom the same may be had,
20 obtained, or purchased unless permitted to do so by the
21 rules of the department and then only in accordance with
22 such rules.

23 (2) This section shall not apply to:

24 (a) the department, or any act of the department, ~~any~~
25 ~~state liquor store~~; or

1 (b) the receipt or transmission of a telegram or
2 letter by any telegraph agent or operator or post-office
3 employee in the ordinary course of his employment as such
4 agent, operator, or employee."

5 Section 26. Section 16-3-106, MCA, is amended to read:

6 "16-3-106. Conveyance of liquors -- opening liquor
7 during transit forbidden. (1) It shall be lawful to carry or
8 convey liquor ~~to any state store and~~ to and from any the
9 state warehouse ~~or depot~~ established by the department for
10 the purposes of this code, and when permitted to do so by
11 this code and the rules made thereunder and in accordance
12 therewith, it shall be lawful for any common carrier or
13 other person to carry or convey ~~liquor sold by a vendor from~~
14 ~~a state store or~~ beer, when lawfully sold by a brewer, from
15 the premises wherein such beer was manufactured or from
16 premises where the beer may be lawfully kept and sold to any
17 place to which the same may be lawfully delivered under this
18 code and the rules made thereunder.

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

23 Section 27. Section 16-3-401, MCA, is amended to read:

24 "16-3-401. Public policy. The public policy of the
25 state of Montana is to maintain a system for the importation

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

6 Section 28. Section 16-4-201, MCA, is amended to read:

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

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

25 (b) in incorporated cities or incorporated towns of

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

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

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

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

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

11 (4) Such limitations do not prevent the issuance of a
 12 nontransferable and nonassignable (as to ownership only)
 13 retail tavern all-beverages license to an enlisted men's,
 14 noncommissioned officers', or officers' club located on a
 15 state or federal military reservation on May 13, 1985, or to
 16 any post of a nationally chartered veterans' organization or
 17 any lodge of a recognized national fraternal organization if
 18 such veterans' or fraternal organization has been in
 19 existence for a period of 5 years or more prior to January
 20 1, 1949.

21 (5) The number of retail tavern all-beverages licenses
 22 that the department may issue for use at premises situated
 23 outside of any incorporated city or incorporated town and
 24 outside of the area within a distance of 5 miles from the
 25 corporate limits thereof may not be more than one license

1 for each 750 population of the county after excluding the
2 population of incorporated cities and incorporated towns in
3 such county."

4 Section 29. Section 16-4-202, MCA, is amended to read:

5 "16-4-202. ~~Resort~~ Retail ~~resort~~ all-beverages
6 licenses. (1) It is the intent and purpose of this section
7 to encourage the growth of quality recreational resort
8 facilities in undeveloped areas of the state and to provide
9 for the orderly growth of existing recreational sites by the
10 establishment of resort areas within which ~~retail-liquor~~
11 licenses to sell liquor, beer, and wine at retail for both
12 on-premises and off-premises consumption (a retail resort
13 all-beverages license) may be issued by the department under
14 the terms and as more particularly prescribed below. In
15 addition to the licenses as otherwise set forth in this
16 code, the department may issue retail resort ~~retail-liquor~~
17 all-beverages licenses in a resort area.

18 (2) For the purposes of this section, a resort area is
19 defined as a recreational facility meeting the
20 qualifications determined by the department as hereinafter
21 provided.

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

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

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

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

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

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

23 (9) Once filed with the department, the boundaries of
 24 a resort may not be changed without full hearing as above
 25 provided and the prior approval of the department, which

1 approval shall be according to public convenience and
 2 necessity.

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

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

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

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

24 (12) A retail resort ~~retail-liquor~~ all-beverages
 25 license shall not be subject to the quota limitations set

1 forth in 16-4-201, and if the requirements of this section
 2 have been met, a retail resort ~~retail-liquor~~ all-beverages
 3 license shall be issued by the department on the basis that
 4 the department has determined that such license is justified
 5 by public convenience and necessity, in accordance with the
 6 procedure required in 16-4-207."

7 Section 30. Section 16-4-204, MCA, is amended to read:

8 "16-4-204. Transfer of retail tavern all-beverages
 9 license -- retail all-beverages catering endorsement --
 10 state warehouse purchasing endorsement. (1) (a) Except as
 11 provided in subsection (1)(b), a retail tavern all-beverages
 12 license may be transferred to a new ownership and to a
 13 location outside the quota area for which it was originally
 14 issued only when the following criteria are met:

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

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

24 (A) by more than 33%; or

25 (B) in an incorporated city of more than 10,000

1 inhabitants and within a distance of 5 miles from its
 2 corporate limits by more than 43%; and

3 (iii) the department finds, after a public hearing,
 4 that the public convenience and necessity would be served by
 5 such a transfer.

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

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

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

23 (e) A license issued under 16-4-209(1)(a) may not be
 24 transferred to a location outside the quota area and the
 25 exterior boundaries of the Montana Indian reservation for

1 which it was originally issued.

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

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

13 (c) A written application for each event for which the
14 licensee intends to provide catering services, the written
15 approval of the catering application by the sponsor of the
16 special event, and a fee of \$35 must be filed with the
17 department at least 3 days prior to the event and shall
18 describe the location of the premises where the event is to
19 be held, the nature of the event, and the period during
20 which the event is to be held. An A retail all-beverages
21 licensee who holds an endorsement granted under this
22 subsection (2) may not receive approval to cater an event of
23 which he is the sponsor. The catered event must be within
24 100 miles of the licensee's regular place of business. If
25 obtained, the licensee shall display in a prominent place on

1 those premises, the written approval from the department for
2 each event which is catered pursuant to this subsection.

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

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

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

16 (3) (a) A retail all-beverages licensee is entitled to
17 an endorsement to his retail all-beverages license to permit
18 the licensee to purchase liquor and table wine from the
19 state warehouse.

20 (b) To obtain a state warehouse purchasing
21 endorsement, a licensee must submit a written application
22 and an annual fee of \$400 to the department."

23 Section 31. Section 16-4-205, MCA, is amended to read:
24 "16-4-205. Limit one license to person -- exceptions
25 -- business in name of licensee. (1) No Except as provided

1 in subsection (2), no person shall may be issued more than
 2 one retail all-beverages license in any year~~7--with--the~~
 3 ~~exception-of-a.~~

4 (2) (a) A secured party may be issued an additional
 5 retail all-beverages license as the result of a default.
 6 Such a secured party shall transfer ownership of any
 7 additional retail all-beverages license within 180 days of
 8 issuance.

9 (b) A person may be issued both a retail all-beverages
 10 license and a package store license.

11 (3) No business may be carried on under any license
 12 issued under this chapter except in the name of the
 13 licensee."

14 Section 32. Section 16-4-207, MCA, is amended to read:

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

1 is published. Notice of application for a new license shall
 2 be published once a week for 4 consecutive weeks. Notice of
 3 application for transfer of a license shall be published
 4 once a week for 2 consecutive weeks. Notice may be
 5 substantially in the following form:

6 NOTICE OF APPLICATION FOR RETAIL

7 ALL-BEVERAGES LICENSE

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

16 Dated Signed

17 ADMINISTRATOR

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

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

1 Helena."

2 Section 33. Section 16-4-208, MCA, is amended to read:

3 "16-4-208. Airport Retail public airport all-beverages
4 license. (1) The department of revenue shall issue one
5 retail all-beverages license, to be known as a retail public
6 airport all-beverages license, for use at each publicly
7 owned airport served by scheduled airlines and enplaning and
8 deplaning a minimum total of 20,000 passengers annually
9 when:

10 (a) application is made;

11 (b) upon finding that this license is justified by
12 public convenience and necessity, including the convenience
13 and necessity of the public traveling by scheduled airlines;
14 and

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

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

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

24 (4) The department of revenue shall issue a retail
25 public airport all-beverages license to a qualified

1 applicant regardless of the number of retail all-beverages
2 licenses already issued within the retail tavern
3 all-beverages license quota area in which the airport is
4 situated."

5 Section 34. Section 16-4-209, MCA, is amended to read:

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

11 (a) a tribal alcoholic beverages licensee who operates
12 such business within the exterior boundaries of a Montana
13 Indian reservation under a tribal license issued prior to
14 January 1, 1985;

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

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

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

1 which the license was originally issued.

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

5 Section 35. Section 16-4-501, MCA, is amended to read:

6 "16-4-501. License and permit fees. (1) Each beer
7 licensee licensed to sell either beer or table wine only, or
8 both beer and table wine, under the provisions of this code,
9 shall pay an annual license fee as follows:

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

13 (b) each beer wholesaler, \$400; each table wine
14 distributor, \$400; each subwarehouse, \$400;

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

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

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

24 (2) The permit fee under 16-4-301(1) is computed at
25 the rate of \$15 a day for each day beer and table wine are

1 sold at those events lasting 2 or more days but in no case
2 be less than \$30.

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

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

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

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

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

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

23 (b) except as hereinafter provided, for each license
24 in incorporated cities with a population of more than 2,000
25 and less than 5,000 or within a distance of 5 miles thereof,

1 measured in a straight line from the nearest entrance of the
 2 premises to be licensed to the nearest boundary of such
 3 city, \$350 for a unit of a nationally chartered veterans'
 4 organization and \$500 for all other licensees;

5 (c) except as hereinafter provided, for each license
 6 in incorporated cities with a population of more than 5,000
 7 and less than 10,000 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, \$500 for a unit of a nationally
 11 chartered veterans' organization and \$650 for all other
 12 licensees;

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

20 (e) the distance of 5 miles from the corporate limits
 21 of any incorporated cities and incorporated towns is
 22 measured in a straight line from the nearest entrance of the
 23 premises to be licensed to the nearest boundary of such city
 24 or town; and where the premises of the applicant to be
 25 licensed are situated within 5 miles of the corporate

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

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

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

24 (9) The fee for issuing a package store license under
 25 [section 1] is:

1 (a) \$15,000, with a \$1,200 annual renewal fee, if the
 2 package store is in an incorporated city with 10,000 or more
 3 inhabitants or within a distance of 5 miles thereof,
 4 measured in a straight line from the nearest entrance of the
 5 store to be licensed to the nearest boundary of such city;
 6 and

7 (b) \$5,000, with a \$1,200 annual renewal fee, if the
 8 package store is in any location not covered under
 9 subsection (9)(a).

10 ~~†9†~~(10) The license fees herein provided for are
 11 exclusive of and in addition to other license fees
 12 chargeable in Montana for the sale of alcoholic beverages.

13 ~~†10†~~(11) In addition to other license fees, the
 14 department of revenue may require a licensee to pay a late
 15 fee of 33 1/3% of any license fee delinquent on July 1 of
 16 the renewal year, 66 2/3% of any license fee delinquent on
 17 August 1 of the renewal year, and 100% of any license fee
 18 delinquent on September 1 of the renewal year."

19 Section 36. Section 16-4-503, MCA, is amended to read:

20 "16-4-503. City and county licenses -- fees. The city
 21 council of any incorporated town or city or the county
 22 commissioners outside of any incorporated town or city may
 23 provide for the issuance of licenses to persons to whom a
 24 retail license has been issued under the provisions of this
 25 code and may fix license fees, not to exceed a sum equal to

1 five-eighths of the fee for ~~an a~~ retail all-beverages
 2 license or 100% of the fee for a beer or beer-and-wine
 3 license collected by the department from such licensee under
 4 this code."

5 Section 37. Section 16-6-107, MCA, is amended to read:

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

1 department.

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

6 Section 38. Section 16-6-301, MCA, is amended to read:

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

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

1 purchased from a state liquor--store licensee. This
2 subsection shall not apply to the department or to the
3 keeping or having of liquor by brewers, distillers, and
4 other persons duly licensed by the United States for the
5 manufacture of such liquor or to the keeping or having of
6 any proprietary or patent medicines or of any extracts,
7 essences, tinctures, or preparations where such having and
8 keeping is authorized by this code.

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

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

18 (a) attempt to purchase any alcoholic beverage;

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

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

25 Section 39. Section 16-6-303, MCA, is amended to read:

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

16 NEW SECTION. Section 40. Sale of existing state
 17 retail liquor stores. (1) The department of revenue shall
 18 negotiate contracts to sell, as soon as possible after [the
 19 effective date of this section], all existing state retail
 20 liquor stores, including agency stores, and the contracts
 21 must have a July 1, 1988, closing date. The sales must be
 22 made through a sealed bid procedure to qualified bidders. A
 23 qualified bidder is a bidder who is eligible to receive a
 24 package store license.

25 (2) The department shall establish a minimum sale

1 price for each state-operated store that may not be less
 2 than 80% of the value of the store's inventory (at the
 3 retail price, including taxes, determined by the department)
 4 plus the cost of a package store license as provided in
 5 16-4-501(9). The highest qualified bidder is entitled to
 6 assume title to the store inventory, store furniture and
 7 fixtures, lease, if any, and related merchandise and
 8 equipment; except that if the bid of a store employee, an
 9 owner leasing property to the department for operation of
 10 the store, or a person operating the store under an agency
 11 agreement is within 5% of the highest bid, he is entitled to
 12 assume title. The successful bidder must be granted an
 13 agency agreement to operate the store as a state liquor
 14 store between the time title is assumed and July 1, 1988.
 15 The department shall develop a list of items that will be
 16 assumed by the highest qualified bidder.

17 (3) The highest qualified bidder must be issued a
 18 package store license on July 1, 1988, and, notwithstanding
 19 16-4-501(9), may not be charged a fee for issuance of the
 20 license.

21 (4) A state store may be operated by the department
 22 until it is sold and the sale is closed. If it is not sold
 23 by July 1, 1988, the department shall return the inventory
 24 remaining at the store to the central warehouse in Helena
 25 and sell the other items referred to in subsection (2).

1 NEW SECTION. Section 41. Repealer. Sections 2-18-314,
2 16-2-101, 16-2-104, 16-2-105, 16-2-201, 16-2-301, and
3 16-3-307, MCA, are repealed.

4 NEW SECTION. Section 42. Extension of authority. Any
5 existing authority of the department of revenue to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

8 NEW SECTION. Section 43. Codification instruction.
9 Section 1 is intended to be codified as an integral part of
10 Title 16, and the provisions of Title 16 apply to section 1.

11 NEW SECTION. Section 44. Effective dates. (1)
12 Sections 1, 40, and 42 through 44 are effective on passage
13 and approval.

14 (2) The remaining sections are effective July 1, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB562, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act withdrawing the state from the state liquor store business; providing for the sale of state liquor stores; creating a package store license; permitting the Department of Revenue to operate a state warehouse for sales of liquor and wine to certain licensees; clarifying terminology; and providing effective dates.

ASSUMPTIONS:

1. The change in systems, embodied in this proposal, will not cause a reduction in consumption of liquor or wine sold.
2. Revenue Estimating Advisory Council (REAC) assumptions are the basis for comparison.
3. Under the proposed law prices are at wholesale. No additional discounts are provided.
4. The proposed law excludes freight in the posted price. Therefore, freight to licensees will be paid by licensees.
5. Liquor consumption was 5,272,801 liters in FY86. Liquor consumption will be 4,520,768 liters in FY89. (REAC)
6. Under the proposed law the annual license renewal workload will increase requiring 1/2 FTE (\$7,500 salary and benefits).
7. Under the proposal law one additional FTE would be needed to evaluate the 6% liquor sales licensing requirement (\$27,000 salary and benefits).
8. The purchasing and warehouse bureaus would have to increase staff, under the proposed law, due to increased transaction level resulting from the shift from 139 outlets to over 1,500 licensees and new package store licensees.
9. When the proposed conversion takes effect (July 1, 1988) no Store Bureau or store/agency costs will be incurred.
10. Under the proposed law the liquor excise tax will be \$1.75 per liter.
11. Under the proposed law the liquor license tax will be \$.65 per liter.
12. Under the proposed law all retail all beverage licensees will obtain state warehouse purchasing endorsements. The proceeds from these endorsements will be deposited in the general fund.
13. Liquor excise tax allocation: 100% general fund.
14. Liquor license tax allocation: 34.5% local governments; 65.5% institutions.
15. Table wine tax allocation: \$.16 general fund; \$.0266 local governments; \$.0834 institutions.
16. Liquor profit allocation: 100% general fund.

I DO NOT agree Simon

David L. Hunter DATE 2/16/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE _____
 BRUCE SIMON, PRIMARY SPONSOR
 Fiscal Note for HB562, as introduced.

HB-562

17. Under the proposed law the markup on liquor and wine would be increased to provide a profit which when added to proposed taxes would produce the same amount of total transfers as under the current law.
18. Under the proposed law 7 package store licenses will be issued at \$15,000 each and 4 will be issued at \$5,000 each. Proceeds will be deposited in the general fund.
19. This bill excludes veterans and fraternal organizations from applying for warehouse purchasing endorsements.
20. Conversion of inventory under this proposal will result in a one-time (in FY89) shift of \$2,532,000 from the liquor proprietary fund to the general fund.
21. Under the proposed law, inventory that the 11 package stores bid on will be commensurate with past walk-in trade in those stores.
22. All agency contracts and building leases could be terminated by July 1, 1988. This assumption is probably not realistic given long term legal agreements which the Department has entered into.

FISCAL IMPACT:

Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Package Store Licenses	0	0	0	0	125,000	125,000
License Endorsements	0	0	0	0	576,000	576,000
Liquor Excise Tax	5,397,000	5,397,000	0	5,179,000	7,911,000	2,732,000
Liquor License Tax	3,373,000	3,373,000	0	3,237,000	2,938,000	(299,000)
Table Wine Tax	72,000	72,000	0	65,000	65,000	0
Liquor Profit	4,151,000	4,151,000	0	3,789,000	655,000	(3,134,000)
Other Income	34,000	34,000	0	36,000	36,000	0
Total	13,027,000	13,027,000	0	12,306,000	12,306,000	0

Expenditure Impact:

Discounts	561,000	561,000	0	493,000	0	(493,000)
Operating Expenses	6,816,000	6,816,000	0	6,764,000	2,356,000	(4,408,000)
Freight to Outlets	516,000	516,000	0	516,000	0	(516,000)
Total	7,893,000	7,893,000	0	7,773,000	2,356,000	(5,417,000)

NET EFFECT

	5,134,000	5,134,000	0	4,533,000	9,950,000	5,417,000
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Fund Information:

General Fund	9,591,000	9,591,000	0	9,007,000	11,838,000	2,831,000
Institutions	2,232,000	2,232,000	0	2,140,000	1,945,000	(195,000)
Local Governments	1,170,000	1,170,000	0	1,123,000	1,019,000	(104,000)
Liquor Proprietary	34,000	34,000	0	36,000	36,000	0

Fiscal Note Request, HB562, as introduced.

Form BD-15

Page 3

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

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

	<u>FY88</u>	<u>FY89</u>
Current law	1,170,000	1,123,000
Proposed law	1,170,000	1,019,000
Estimated Decrease	0	(104,000)

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

In order to convert the system as proposed, all long term agreements would need to be terminated by July 1, 1988. Given legal obligations which exist, the conversion could not happen for several years.

HB-562

MONTANA LEGISLATURE
SPONSOR'S FISCAL NOTE
Form BD-15S

There is hereby submitted a Sponsor's Fiscal Note for HB562, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act withdrawing the state from the state liquor store business; providing for the sale of state liquor stores; creating a package store license; permitting the Department of Revenue to operate a state warehouse for sales of liquor and wine to certain licensees; clarifying terminology; and providing effective dates.

ASSUMPTIONS:

1. The change in systems, embodied in this proposal, will not cause a change in consumption of liquor or wine.
2. Under the proposed law prices are at 108% of cost plus freight. No additional discounts are provided.
3. The proposed law excludes freight to licensees in the posted price. Freight to licensees will be paid by licensees.
4. Liquor consumption was 5,272,801 liters in FY86. Liquor consumption will decrease 2% per year, in accordance with the trend in gross sales, to 4,962,718 liters in FY89.
5. The licensing bureau would have to increase staff, under the proposed law, due to increased annual license renewal workload and the need to evaluate the 60% liquor sales licensing requirement.
6. The purchasing and warehouse bureaus would have to increase staff, under the proposed law, due to increased transaction level resulting from the shift from 139 outlets to over 400 licensees and 100 new package store licensees.
7. When the proposed conversion takes effect (July 1, 1988) no Store Bureau or store/agency costs will be incurred.
8. Under the proposed law the liquor excise tax will be \$1.75 per liter.
9. Under the proposed law the liquor license tax will be \$.65 per liter.
10. Under the proposed law all retail all beverage licensees will obtain state warehouse purchasing endorsements. The proceeds from these endorsements will be deposited in the general fund.
11. Liquor excise tax allocation: 100% general fund.
12. Liquor license tax allocation: 34.5% local governments; 65.5% institutions.
13. Table wine tax allocation: \$.16 general fund; \$.0266 local governments; \$.0834 institutions.
14. Liquor profit allocation: 100% general fund.
15. Under the proposed law the markup on liquor and wine would be increased to provide a profit which when added to the proposed taxes would produce the same amount of total transfers as under the current law.
16. Under the proposed law 50 package store licenses will be issued at \$15,000 each and 50 will be issued at \$5,000 each. Proceeds will be deposited in the general fund.
17. This bill excludes veterans and fraternal organizations from applying for warehouse purchasing endorsements.


BRUCE SIMON, PRIMARY SPONSOR DATE 2/10/87

Fiscal Note for HB562, as introduced.

HB 562

Sponsor's Fiscal Note, HB562, as introduced.

Form BD-15S

Page 2

18. Conversion of liquor store inventory under this proposal will result in a one-time (in FY89) increase in revenues of \$5,616,822 and cost of goods sold of \$3,980,174 in the liquor proprietary fund. This would result in a one-time transfer of \$1,079,424 to the general fund (\$891,559 taxes and \$187,865 profit); \$364,982 taxes to institutions; and \$192,242 taxes to counties.
19. Conversion of liquor store furniture under this proposal will result in a one-time (in FY89) shift of \$250,000 from the liquor proprietary fund to the general fund.
20. All agency contracts and building leases could be terminated by July 1, 1988.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Revenue Impact:</u>						
Package Store Licenses	0	0	0	0	1,000,000	1,000,000
License Endorsements	0	0	0	0	160,000	160,000
Liquor Excise Tax	5,798,000	5,798,000	0	5,682,000	8,685,000	3,003,000
Liquor License Tax	3,624,000	3,624,000	0	3,551,000	3,226,000	(325,000)
Table Wine Tax	74,000	74,000	0	67,000	67,000	0
Liquor Sales (net of taxes & discounts)	36,164,000	36,164,000	0	35,446,000	28,196,000	(7,250,000)
Liquor Profit Transfers	3,498,000	3,498,000	0	3,352,000	1,435,000	(1,917,000)
Other Income	34,000	34,000	0	36,000	36,000	0
TOTAL REVENUE	49,192,000	49,192,000	0	48,134,000	42,805,000	(5,329,000)
<u>Expenditure Impact:</u>						
Profit Transfers Out	3,498,000	3,498,000	0	3,352,000	1,435,000	(1,917,000)
Cost of Goods Sold	25,884,000	25,884,000	0	25,366,000	25,366,000	0
Operating Expenses	6,816,000	6,816,000	0	6,764,000	1,430,000	(5,334,000)
TOTAL EXPENDITURES	36,198,000	36,198,000	0	35,482,000	28,231,000	(7,251,000)
NET EFFECT	12,994,000	12,994,000	0	12,652,000	14,574,000	1,922,000
<u>One-time Impact:</u>						
Sale of furniture	0	0	0	0	250,000	250,000
Sale of inventory	0	0	0	0	5,617,000	5,617,000
Cost of inventory sold	0	0	0	0	(3,980,000)	(3,980,000)
NET ONE-TIME EFFECT	0	0	0	0	1,887,000	1,887,000
TOTAL NET EFFECT	12,994,000	12,994,000	0	12,652,000	16,461,000	3,809,000

Sponsor's HB562

Sponsor's Fiscal Note, HB562, as introduced.

Form BD-15S

Page 3

FUND IMPACT:

Revenues:

General Fund	9,340,000	9,340,000	0	9,074,000	13,207,000*	4,133,000*
Special Revenue Fund:						
Institutions	2,397,000	2,397,000	0	2,346,000	2,134,000	(212,000)
Local Governments	1,257,000	1,257,000	0	1,232,000	1,119,000	(113,000)
Proprietary Fund	<u>36,198,000</u>	<u>36,198,000</u>	<u>0</u>	<u>35,482,000</u>	<u>28,232,000</u>	<u>(7,250,000)</u>
Total Revenue	49,192,000	49,192,000	0	48,134,000	42,805,000	(5,329,000)

Expenditures:

Proprietary Fund	36,198,000	36,198,000	0	35,482,000	28,232,000	(7,250,000)
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*Includes one-time impact effect of \$1,887,000.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

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

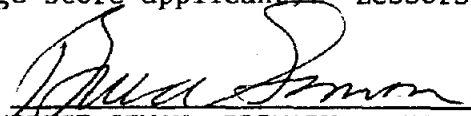
	<u>FY88</u>	<u>FY89</u>
Current Law	1,257,000	1,232,000
<u>Proposed Law</u>	<u>1,257,000</u>	<u>1,119,000</u>
Estimated Decrease	0	113,000

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

NA

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

In order to convert the system as proposed, all long term agreements would need to be terminated by July 1, 1988. Most of the long term agreements contain cancellation clauses which would allow the department to terminate the agreements by July 1, 1988. The Department may terminate the agreements by giving 60 to 180 days written notice to the lessor; or by subletting the lease (e.g. to a successful package store applicant). Lessors may also terminate


BRUCE SIMON, PRIMARY SPONSOR

DATE 2/10/87

HB 562

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 562

INTRODUCED BY SIMON, PAVLOVICH, FRITZ, RAMIREZ, REGAN,
MARKS, HANNAH, BRADLEY, KITSELMAN, JONES, C. SMITH,
GILBERT, CRIPPEN, MAZUREK, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT WITHDRAWING THE STATE
FROM THE STATE LIQUOR STORE BUSINESS; PROVIDING FOR THE SALE
OF STATE LIQUOR STORES; CREATING A PACKAGE STORE LICENSE;
PERMITTING THE DEPARTMENT OF REVENUE TO OPERATE A STATE
WAREHOUSE FOR SALES OF LIQUOR AND WINE TO CERTAIN LICENSEES;
CLARIFYING 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 THROUGH 16-2-108,
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, 16-4-501, 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, 16-2-105, 16-2-201, 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:

NEW SECTION. Section 1. Package store license. (1)
Except as provided in subsections (2) and (3), an applicant
who meets the requirements of this code must be issued a

license to purchase liquor ~~and table~~ wine from the state
warehouse and to sell liquor, beer, and table wine at retail
for off-premises consumption only. Such a license is called
a package store license.

(2) Except in a city or town of 2,500 inhabitants or
less:

(a) a license may not be granted to an applicant that
operates, manages, or directly or indirectly owns a
controlling interest in a grocery store or supermarket of
any size that is within the same structure and uses the same
entrance as the premises where the license will be
exercised; and

(b) at least 60% of the gross sales for any 3-month
period from a business licensed under this section must be
derived from the sale of alcoholic beverages.

(3) Except as provided in [section 40], no license may
be issued under this section until January 1, 1990.

Section 2. Section 2-17-101, MCA, is amended to read:
"2-17-101. Allocation of space. (1) The department of
administration shall periodically survey the needs of state
agencies other than the university system and shall assign
space in state buildings to such agencies. No state agency
shall lease, rent, or purchase property for quarters without
prior approval of the department.

(2) (a) The location of the chambers for the house of

1 representatives shall be determined in the sole discretion
2 of the house of representatives. The location of the
3 chambers of the senate shall be determined in the sole
4 discretion of the senate.

5 (b) The department of administration, with the advice
6 of the capitol building and planning committee, shall
7 allocate other space for the use of the legislature,
8 including but not limited to space for committee rooms and
9 legislative offices.

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

20 Section 3. Section 2-18-203, MCA, is amended to read:

21 "2-18-203. Review of positions -- change in
22 classification. (1) The department shall continuously review
23 all positions on a regular basis and adjust classifications
24 to reflect significant changes in duties and
25 responsibilities. In the event adjustments are to be made to

1 the classification specifications or criteria utilized for
2 allocating positions in the classification specifications
3 affecting employees within a bargaining unit, the department
4 shall consult with the representative of the bargaining unit
5 prior to implementation of the adjustments, except for
6 blue-collar, and teachers, ~~and liquor store clerks~~
7 classification plans, which shall remain mandatory
8 negotiable items under the Collective Bargaining Act.

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

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

19 Section 4. Section 2-18-303, MCA, is amended to read:

20 "2-18-303. Procedures for utilizing pay schedules. (1)
21 The pay schedules provided in 2-18-311 and 2-18-312 shall be
22 implemented as follows:

23 (a) The pay schedule provided in 2-18-311 indicates
24 the annual compensation for the fiscal year ending June 30,
25 1986, for each grade and step for positions classified under

1 the provisions of part 2 of this chapter.

2 (b) The pay schedule provided in 2-18-312 indicates
 3 the annual compensation for the fiscal year ending June 30,
 4 1987, for each grade and step for positions classified under
 5 the provisions of part 2 of this chapter.

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

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

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

19 (iii) In compliance with rules adopted to implement
 20 this part, each employee is eligible on his anniversary date
 21 to advance one step in the pay matrix for fiscal year 1987.
 22 However, if the employee's anniversary date falls between
 23 (inclusive) July 1 and the first day of the first pay period
 24 of fiscal year 1987, he will advance one step on the first
 25 day of that pay period.

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

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

9 (a) (i) The pay schedules provided in 2-18-313
 10 indicate the annual compensation for the contracted school
 11 term for teachers employed by institutions under the
 12 authority of the department of institutions for fiscal years
 13 1986 and 1987.

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

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

22 ~~{b}--(i)--The--pay--schedules---provided---in---2-18-314~~
 23 ~~indicate--the--maximum--hourly--compensation--for--fiscal--years~~
 24 ~~ending--June--30,--1986,--and--June--30,--1987,--for--those--employees~~
 25 ~~in--liquor--store--occupations--who--have--collectively--bargained~~

1 ~~separate classification and pay plans:~~

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

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

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

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

24 (ii) In the event that negotiation and ratification of
 25 a completely integrated collective bargaining agreement as

1 required by subsection (4)(a)(i) of this section are not
 2 completed by July 1, 1985, retroactivity to that date may be
 3 negotiated.

4 (iii) 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, members of the bargaining unit
 8 involved will continue to receive the compensation they were
 9 receiving as of June 30, 1985.

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

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

17 (6) The department may authorize a separate pay
 18 schedule for medical doctors if the rates provided in
 19 2-18-311 and 2-18-312 are not sufficient to attract and
 20 retain fully licensed and qualified physicians at the state
 21 institutions.

22 (7) The department may develop programs which will
 23 enable the department to mitigate problems associated with
 24 difficult recruitment, retention, transfer, or other
 25 exceptional circumstances. Insofar as the program may apply

1 to employees within a collective bargaining unit, it shall
2 be a negotiable subject under 39-31-305."

3 Section 5. Section 2-18-304, MCA, is amended to read:

4 "2-18-304. Longevity allowance. (1) In addition to the
5 compensation provided for in 2-18-311, 2-18-312, 2-18-313,
6 ~~2-18-314~~, or 2-18-315, each employee who has completed 5
7 years of uninterrupted state service shall receive the
8 larger of \$10 a month or 10% of the difference between the
9 base compensation for his grade and step (where applicable)
10 and the base compensation for the next highest grade and
11 corresponding step (where applicable) multiplied by the
12 number of completed, contiguous 5-year periods of
13 uninterrupted state service. Service to the state is not
14 interrupted by authorized leaves of absence.

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

18 (i) 2,080 hours of service following his date of
19 employment; an employee must be credited with 80 hours of
20 service for each biweekly pay period in which he is in a pay
21 status or on an authorized leave of absence without pay,
22 regardless of the number of hours of service in the pay
23 period; or

24 (ii) 12 uninterrupted calendar months following his
25 date of employment in which he was in a pay status or on an

1 authorized leave of absence without pay, regardless of the
2 number of hours of service in any one month. An employee of
3 a school at a state institution or the university system
4 must be credited with 1 year of service if he is employed
5 for an entire academic year.

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

10 Section 6. Section 2-18-305, MCA, is amended to read:

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

24 (2) Employees may, through collective bargaining,
25 determine the allocation of the amounts shown in the pay

1 schedules provided in 2-18-311, 2-18-312, 2-18-313,
 2 ~~2-18-314~~, or 2-18-315, as the case may be, between wages and
 3 group benefits, except that in no case may the group
 4 benefits allocation be less than the amounts provided in
 5 2-18-703."

6 Section 7. Section 16-1-103, MCA, is amended to read:

7 "16-1-103. Policy as to retail sale of liquor. It is
 8 the policy of the state that it is necessary to further
 9 regulate and control the sale and distribution of alcoholic
 10 beverages within the state and to ensure the entire control
 11 of the sale of liquor in the department of revenue. It is
 12 advisable and necessary, ~~in addition to the operation of the~~
 13 ~~state liquor stores now provided by law~~, that the department
 14 be empowered and authorized to grant licenses to persons
 15 qualified under this code to sell liquor purchased by them
 16 at the state liquor stores warehouse at retail the posted
 17 price in accordance with this code and under rules
 18 promulgated by the department and under its strict
 19 supervision and control and to provide severe penalty for
 20 the sale of liquor except ~~by and in state liquor stores--and~~
 21 by persons licensed under this code. The restrictions,
 22 regulations, and provisions contained in this code are
 23 enacted by the legislature for the protection, health,
 24 welfare, and safety of the people of the state."

25 Section 8. Section 16-1-105, MCA, is amended to read:

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

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

12 "16-1-106. Definitions. As used in this code, the
 13 following definitions apply:

14 ~~{1}--"Agency--agreement"--means--an--agreement--between--the~~
 15 ~~department--and--a--person--appointed--to--sell--liquor--as--a~~
 16 ~~commission--merchant--rather--than--as--an--employee.~~

17 ~~{2}{1}~~ "Alcohol" means ethyl alcohol, also called
 18 ethanol, or the hydrated oxide of ethyl.

19 ~~{3}{2}~~ "Alcoholic beverage" means a compound produced
 20 and sold for human consumption as a drink that contains more
 21 than .5% of alcohol by volume.

22 ~~{4}{3}~~ "Beer" means a malt beverage containing not
 23 more than 7% of alcohol by weight.

24 ~~{5}{4}~~ "Beer importer" means a person other than a
 25 brewer who imports malt beverages.

1 †6†(5) "Brewer" means a person who produces malt
2 beverages.

3 †7†(6) "Department" means the department of revenue.

4 †8†(7) "Immediate family" means a spouse, dependent
5 children, or dependent parents.

6 †9†(8) "Import" means to transfer beer or table wine
7 from outside the state of Montana into the state of Montana.

8 †10†(9) "Industrial use" means a use described as
9 industrial use by the federal Alcohol Administration Act and
10 the federal rules and regulations of 27 CFR.

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

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

22 †13†(12) "Package" means a container or receptacle used
23 for holding an alcoholic beverage.

24 (13) "Package store" means a store that sells liquor,
25 beer, and table wine at retail for off-premises consumption

1 only.

2 (14) "Posted price" means the ~~retail~~ wholesale price of
3 paid by licensees for liquor and-table-wine purchased from
4 the state warehouse. The term includes the price as fixed
5 and determined by the department, costs incurred in shipping
6 the liquor and-table-wine to the warehouse, and in-addition
7 thereto-an-excise-and-license-tax-as any taxes provided in
8 this code. The term does not include costs incurred in
9 shipping the liquor or-table-wine to the retailer.

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

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

16 (17) "Retail all-beverages license" includes a retail
17 tavern all-beverages license, retail resort all-beverages
18 license, or retail public airport all-beverages license but
19 does not include a package store license.

20 †17†(18) "Rules" means rules published by the
21 department pursuant to this code.

22 †18†-"State-liquor-facility"-means-a-facility-owned--or
23 under---controi---of---the---department---for---the---purpose---of
24 receiving,--storing,--transporting,--or--selling---alcoholic
25 beverages.

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

4 (19) "State warehouse" means the state warehouse
 5 operated by the department through which a package store
 6 licensee and a retail all-beverages licensee with a state
 7 warehouse purchasing endorsement may purchase liquor and
 8 table wines.

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

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

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

24 (23) "Warehouse" means a building or structure located
 25 in Montana owned or operated by a licensed beer wholesaler

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

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

16 Section 10. Section 16-1-202, MCA, is amended to read:

17 "16-1-202. Preparations not subject to code. (1)
 18 Subject to the provisions of this section, nothing in this
 19 code shall, by reason only that such preparation contains
 20 alcohol, prevent the manufacture, sale, purchase, or
 21 consumption of any:

22 (a) extract, essence, or tincture or other preparation
 23 containing alcohol which is prepared according to a formula
 24 of the United States Pharmacopoeia or according to a formula
 25 approved of by the department; or

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

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

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

18 Section 11. Section 16-1-301, MCA, is amended to read:
19 "16-1-301. Administration of code. The department
20 shall have the powers and duties to administer the Montana
21 Alcoholic Beverage Code, ~~including the general control,~~
22 ~~management, and supervision of all state liquor stores."~~

23 Section 12. Section 16-1-302, MCA, is amended to read:
24 "16-1-302. Functions, powers, and duties of
25 department. (1) The department shall have the following

1 functions, duties, and powers:

2 ~~(1)(a)~~ to buy, import, have in its possession for
3 sale, and sell through the state warehouse liquors and table
4 wine to package store licensees and retail tavern
5 all-beverages licensees with state warehouse purchasing
6 endorsements in the manner set forth in this code;

7 ~~(2)(b)~~ to control the possession, sale, and delivery
8 of liquors in accordance with the provisions of this code;

9 ~~(3)--to-determine-the-municipalities-within-which-state~~
10 ~~liquor--stores-shall-be-established-throughout-the-state-and~~
11 ~~the-situation-of-the-stores-within-every-such--municipality;~~
12 ~~(4)(c)~~ to buy or lease, furnish, and equip any one
13 building or and buy or lease land required for the operation
14 of the state warehouse under this code;

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

18 ~~(6)(d)~~ to employ store--managers a state warehouse
19 manager and also every officer, investigator, clerk, or
20 other employee required for the operation or carrying out of
21 this code and to dismiss the same, fix their salaries or
22 remuneration, assign them their title, define their
23 respective duties and powers, and to engage the service of
24 experts and persons engaged in the practice of a profession,
25 if deemed expedient;

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

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

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

11 ~~(2) The department may operate only one state~~
12 ~~warehouse under this code."~~

13 Section 13. Section 16-1-303, MCA, is amended to read:

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

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

23 (a) regulating the equipment and management of the
24 ~~state stores and warehouses in which liquor or table wine is~~
25 ~~kept or sold~~ warehouse and prescribing the books and records

1 to be kept therein;

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

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

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

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

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

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

23 ~~(h)(e)~~ prescribing the form of records of purchase of
24 liquor ~~and table wine~~ and the reports to be made thereon to
25 the division and providing for inspection of the records so

1 kept;

2 ~~(*)~~(f) prescribing the manner of giving and serving

3 notices required by this code or the rules thereunder;

4 ~~(*)~~(g) prescribing the fees payable in respect of

5 permits and licenses issued under this code for which no

6 fees are prescribed in this code and prescribing the fees

7 for anything done or permitted to be done under the rules

8 made thereunder;

9 ~~(*)~~(h) prescribing, subject to the provisions of this

10 code, the conditions and qualifications necessary for the

11 obtaining of a liquor or beer license and the books and

12 records to be kept and the returns to be made by the

13 licensees and providing for the inspection of such licensed

14 premises;

15 ~~(*)~~(i) specifying and describing the place and the

16 manner in which liquor or beer may be lawfully kept or

17 stored;

18 ~~(*)~~(j) specifying and regulating the time and periods

19 when and the manner, methods, and means by which vendors and

20 brewers shall deliver liquor under this code and the time

21 and periods when and the manner, methods, and means by which

22 liquor, under this code, may be lawfully conveyed or

23 carried;

24 ~~(*)~~(k) governing the conduct, management, and

25 equipment of any premises licensed to sell liquor or beer

1 under this code;

2 ~~(*)~~(l) providing for the imposition and collection of

3 taxes and making rules respecting returns, accounting, and

4 payment of the taxes to the department.

5 (3) Whenever it is provided in this code that any act,

6 matter, or thing may be done if permitted or authorized by

7 the rules or may be done in accordance with the rules or as

8 provided by the rules, the department, subject to the

9 restrictions set out in subsection (1) hereof, shall have

10 the power to make rules respecting such act, matter, or

11 thing."

12 Section 14. Section 16-1-304, MCA, is amended to read:

13 "16-1-304. Prohibited acts within division. (1) No

14 officer or employee of the liquor division~~including those~~

15 ~~engaged in the sale of liquor at the various state liquor or~~

16 ~~table wine stores,~~ may be directly or indirectly interested

17 or engaged in any other business or undertaking dealing in

18 liquor ~~or table wine,~~ whether as owner, part owner, partner,

19 member of syndicate, shareholder, agent, or employee and

20 whether for his own benefit or in a fiduciary capacity for

21 some other person.

22 (2) No member or employee of the division or any

23 employee of the state may solicit or receive directly or

24 indirectly any commission, remuneration, or gift whatsoever

25 from any person or corporation having sold, selling, or

1 offering liquor ~~or table wine~~ for sale to the state or
2 division pursuant to this code.

3 (3) No person selling or offering for sale to or
4 purchasing liquor or table wine from the state liquor
5 division may either directly or indirectly offer to pay any
6 commission, profit, or remuneration or make any gift to any
7 member or employee of the division, to any employee of the
8 state, or to anyone on behalf of such member or employee.

9 (4) The prohibition contained in subsection (3) of
10 this section does not prohibit the division from receiving
11 samples of liquor or table wine for the purpose of chemical
12 testing, subject to the following limitations:

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

21 (b) When a brand of liquor or table wine has been
22 accepted for testing by the division, the division shall
23 forward the sample, unopened and in its entirety, to a
24 qualified chemical laboratory for analysis.

25 (c) The division shall maintain written records of all

1 samples received. The records shall show the brand name,
2 amount and from whom received, date received, the laboratory
3 or chemist to whom forwarded, the division's action on the
4 brand, and the person to whom delivered or other final
5 disposition of the sample.

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

17 Section 15. Section 16-1-401, MCA, is amended to read:
18 "16-1-401. Liquor excise tax. (1) The department is
19 hereby authorized and directed to charge, receive, and
20 collect at the time of the sale and delivery of any liquor
21 as authorized under any provision of the laws of the state
22 of Montana an excise tax at the rate of:

23 ~~(a) 16% of the retail selling price on all liquor sold~~
24 ~~and delivered in the state by a company that manufactured,~~
25 ~~distilled, rectified, bottled, or processed, and sold more~~

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

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

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

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

16 "16-1-402. Payment of excise tax by carriers. (1)
 17 Every airline or railroad operating in the state of Montana
 18 and selling liquor purchased outside this state for
 19 consumption within this state shall pay to the department
 20 the excise taxes and state markup which would be applicable
 21 to such liquor if purchased from the state liquor store
 22 warehouse.

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

- 1 (a) the average liquor used per departure;
 - 2 (b) the number of departures from Montana on which
 - 3 liquor is served;
 - 4 (c) the ratio of Montana revenue passenger miles to
 - 5 system revenue passenger miles; and
 - 6 (d) the applicable excise tax and state markup rates.
- 7 (3) From said product, the carrier shall subtract the
 8 amount of excise taxes and state markup on purchases of
 9 liquor made within this state."

10 Section 17. Section 16-1-404, MCA, is amended to read:

11 "16-1-404. License tax on liquor -- amount --
 12 distribution of proceeds. (1) The department is hereby
 13 authorized and directed to charge, receive, and collect at
 14 the time of sale and delivery of any liquor under any
 15 provisions of the laws of the state of Montana a license tax
 16 at the rate of:

17 (a) 10% of the retail selling price on all liquor sold
 18 and delivered in the state by a company that manufactured,
 19 distilled, rectified, bottled, or processed, and sold more
 20 than 200,000 proof gallons of liquor nationwide in the
 21 calendar year preceding imposition of the tax pursuant to
 22 this section;

23 (b) 8.6% of the retail selling price on all liquor
 24 sold and delivered in the state by a company that
 25 manufactured, distilled, rectified, bottled, or processed;

1 and--sold--not--more--than--200,000--proof-gallons-of-liquor
2 nationwide-in-the-calendar-year-preceding-imposition-of--the
3 tax-pursuant-to-this-section 65 cents a liter.

4 (2) The license tax shall be charged and collected on
5 all liquor brought into the state and taxed by the
6 department. ~~The--retail--selling-price-shall-be-computed-by~~
7 ~~adding-to-the-cost--of--said--liquor--the--state--markup--as~~
8 ~~designated--by--the--department.~~ The license tax shall be
9 figured in the same manner as the state excise tax and shall
10 be in addition to said state excise tax. The department
11 shall retain in a separate account the amount of the license
12 tax so received. Thirty percent of these revenues are
13 statutorily appropriated, as provided in 17-7-502, to the
14 department and shall be allocated to the counties according
15 to the amount of liquor purchased in each county to be
16 distributed to the incorporated cities and towns, as
17 provided in subsection (3). Four and one-half percent of
18 these revenues are statutorily appropriated, as provided in
19 17-7-502, and shall be allocated to the counties according
20 to the amount of liquor purchased in each county, and this
21 money may be used for county purposes. The remaining
22 revenues shall be deposited in the state special revenue
23 fund to the credit of the department of institutions for the
24 treatment, rehabilitation, and prevention of alcoholism.
25 Provided, however, in the case of purchases of liquor by a

1 retail liquor licensee for use in his business, the
2 department shall make such regulations as are necessary to
3 apportion that proportion of license tax so generated to the
4 county where the licensed establishment is located, for use
5 as provided in 16-1-405. That proportion of the license tax
6 is statutorily appropriated, as provided in 17-7-502, to the
7 department, which shall pay quarterly to each county
8 treasurer the proportion of the license tax due each county
9 to be allocated to the incorporated cities and towns of the
10 county.

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

19 (4) The license tax proceeds that are allocated to the
20 department of institutions for the treatment,
21 rehabilitation, and prevention of alcoholism shall be
22 credited quarterly to the department of institutions. The
23 legislature may appropriate a portion of the license tax
24 proceeds to support alcohol programs. The remainder shall be
25 distributed as provided in 53-24-206."

1 Section 18. Section 16-2-103, MCA, is amended to read:

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

8 (2) The invoice shall show the date of purchase, name
9 of employee making the sale, the quantity of each kind of
10 liquor purchased, the price paid therefor, the name of the
11 licensee, and the number of the license, with such other
12 information as may be required by the department.

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

18 Section 19. Section 16-2-106, MCA, is amended to read:

19 "16-2-106. Purchase price in advance. ~~A--store~~ The
20 state warehouse manager and other authorized state warehouse
21 employees may sell to any person licensee such liquor as
22 that person licensee is entitled to purchase in conformity
23 with the provisions of this code and the rules made
24 thereunder, provided that no delivery shall take place until
25 the purchaser has paid the purchase price."

1 Section 20. Section 16-2-107, MCA, is amended to read:

2 "16-2-107. No open liquor container or liquor
3 consumption on premises of state package store. No ~~officer,~~
4 ~~clerk,~~~~--or-agent-of-the-department~~ person owning or employed
5 in a state package store shall allow any liquor container to
6 be opened on the premises of ~~a-state~~ the store or allow any
7 liquor to be consumed on the premises of ~~a-state~~ the store,
8 nor shall any person open a liquor container or consume any
9 liquor on such premises."

10 Section 21. Section 16-2-108, MCA, is amended to read:

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

1 it and also the net proceeds from the operation of the state
2 liquor stores warehouse."

3 Section 22. 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 the state warehouse
6 to licensees licensed under this code all kinds of liquor,
7 wine containing more than 14% alcohol by volume, and
8 cordials kept in stock, at the posted price thereof ~~in the~~
9 ~~store in which the liquor is sold.~~ All sales shall be upon a
10 cash basis."

11 ~~Section 23. Section 16-2-302, MCA, is amended to read:~~

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

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

18 ~~"16-2-303. Department prohibited from engaging in~~
19 ~~unfair competition. ~~{1}~~ The department in engaging in the~~
20 ~~retail wholesale sale of table wine to licensees, is subject~~
21 ~~to the provisions of Title 30, chapter 14, parts 1 and 2,~~
22 ~~except those provisions relating to enforcement and~~
23 ~~penalties.~~

24 ~~{2} A person aggrieved by a violation of this section~~
25 ~~by the department may maintain an action to enjoin the~~

1 ~~alleged violation and for the recovery of damages in the~~
2 ~~district court of the district where the conduct complained~~
3 ~~of occurred or where the department's principal office is~~
4 ~~located."~~

5 Section 23. Section 16-3-103, MCA, is amended to read:

6 "16-3-103. Unlawful sales solicitation or advertising
7 -- exceptions. (1) No person within the state shall:

8 (a) canvass for, receive, take, or solicit orders for
9 the purchase or sale of any liquor or act as agent or
10 intermediary for the sale or purchase of any liquor or hold
11 himself out as such agent or intermediary unless permitted
12 to do so under rules that shall be promulgated by the
13 department to govern such activities;

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

18 (c) exhibit, publish, or display or permit to be
19 exhibited, published, or displayed any form of advertisement
20 or any other announcement, publication, or price list of or
21 concerning liquor or where or from whom the same may be had,
22 obtained, or purchased unless permitted to do so by the
23 rules of the department and then only in accordance with
24 such rules.

25 (2) This section shall not apply to:

1 (a) the department, or any act of the department,--any
 2 state-liquor-store; or

3 (b) the receipt or transmission of a telegram or
 4 letter by any telegraph agent or operator or post-office
 5 employee in the ordinary course of his employment as such
 6 agent, operator, or employee."

7 Section 24. Section 16-3-106, MCA, is amended to read:

8 "16-3-106. Conveyance of liquors -- opening liquor
 9 during transit forbidden. (1) It shall be lawful to carry or
 10 convey liquor ~~to--any--state-store-and~~ to and from any the
 11 state warehouse or-depot established by the department for
 12 the purposes of this code, and when permitted to do so by
 13 this code and the rules made thereunder and in accordance
 14 therewith, it shall be lawful for any common carrier or
 15 other person to carry or convey ~~liquor-sold-by-a-vendor-from~~
 16 ~~a-state-store-or~~ beer, when lawfully sold by a brewer, from
 17 the premises wherein such beer was manufactured or from
 18 premises where the beer may be lawfully kept and sold to any
 19 place to which the same may be lawfully delivered under this
 20 code and the rules made thereunder.

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

25 Section 25. Section 16-3-401, MCA, is amended to read:

1 "16-3-401. Public policy. The public policy of the
 2 state of Montana is to ~~maintain-a-system-for-the-importation~~
 3 ~~and-sale-of-wine-by--the--state--through~~ the state liquor
 4 facilities warehouse and provide for, regulate, and control
 5 the acquisition, importation, and distribution of table wine
 6 containing not more than 14% alcohol by volume by licensed
 7 wine distributors ~~and-the-state."~~

8 Section 26. Section 16-4-201, MCA, is amended to read:

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

23 (a) in incorporated towns of 500 inhabitants or less
 24 and within a distance of 5 miles from the corporate limits
 25 of such towns, not more than two retail tavern all-beverages

1 licenses;

2 (b) in incorporated cities or incorporated towns of
 3 more than 500 inhabitants and not over 3,000 inhabitants and
 4 within a distance of 5 miles from the corporate limits of
 5 such cities and towns, three retail tavern all-beverages
 6 licenses for the first 1,000 inhabitants and one retail
 7 tavern all-beverages license for each additional 1,000
 8 inhabitants;

9 (c) in incorporated cities of over 3,000 inhabitants
 10 and within a distance of 5 miles from the corporate limits
 11 thereof, five retail tavern all-beverages licenses for the
 12 first 3,000 inhabitants and one retail tavern all-beverages
 13 license for each additional 1,500 inhabitants.

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

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

8 (3) Retail tavern all-beverages licenses of issue on
 9 March 7, 1947, and retail tavern all-beverages licenses
 10 issued under 16-4-20¹, which are in excess of the foregoing
 11 limitations shall be renewable, but no new licenses may be
 12 issued in violation of such limitations.

13 (4) Such limitations do not prevent the issuance of a
 14 nontransferable and nonassignable (as to ownership only)
 15 retail tavern all-beverages license to an enlisted men's,
 16 noncommissioned officers', or officers' club located on a
 17 state or federal military reservation on May 13, 1985, or to
 18 any post of a nationally chartered veterans' organization or
 19 any lodge of a recognized national fraternal organization if
 20 such veterans' or fraternal organization has been in
 21 existence for a period of 5 years or more prior to January
 22 1, 1949.

23 (5) The number of retail tavern all-beverages licenses
 24 that the department may issue for use at premises situated
 25 outside of any incorporated city or incorporated town and

1 outside of the area within a distance of 5 miles from the
 2 corporate limits thereof may not be more than one license
 3 for each 750 population of the county after excluding the
 4 population of incorporated cities and incorporated towns in
 5 such county."

6 Section 27. Section 16-4-202, MCA, is amended to read:

7 "16-4-202. Resort Retail resort all-beverages
 8 licenses. (1) It is the intent and purpose of this section
 9 to encourage the growth of quality recreational resort
 10 facilities in undeveloped areas of the state and to provide
 11 for the orderly growth of existing recreational sites by the
 12 establishment of resort areas within which ~~retail--liquor~~
 13 licenses to sell liquor, beer, and wine at retail for both
 14 on-premises and off-premises consumption (a retail resort
 15 all-beverages license) may be issued by the department under
 16 the terms and as more particularly prescribed below. In
 17 addition to the licenses as otherwise set forth in this
 18 code, the department may issue retail resort ~~retail--liquor~~
 19 all-beverages licenses in a resort area.

20 (2) For the purposes of this section, a resort area is
 21 defined as a recreational facility meeting the
 22 qualifications determined by the department as hereinafter
 23 provided.

24 (3) The department shall determine that the area for
 25 which licenses are to be issued is a resort area, such

1 determination to be made under and pursuant to rules to be
 2 first promulgated on or before December 31, 1975.

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

15 (5) The resort area must be determined by the resort
 16 developer or landowner by a plat setting forth the resort
 17 boundaries, designating the ownership of the lands within
 18 the resort area, which plat must be verified by the resort
 19 developer or landowner and filed with the department prior
 20 to the filing of any applications by individuals for
 21 licenses within the resort area. Such plat must show the
 22 location and general design of the buildings and other
 23 improvements to be built in said area in which retail resort
 24 ~~retail--liquor~~ all-beverages licenses are to or may be
 25 located. A master plan for the development of the area may

1 be filed by the resort developer in satisfaction of this
2 section.

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

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

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

25 (9) Once filed with the department, the boundaries of

1 a resort may not be changed without full hearing as above
2 provided and the prior approval of the department, which
3 approval shall be according to public convenience and
4 necessity.

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

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

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

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

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

9 Section 28. Section 16-4-204, MCA, is amended to read:

10 "16-4-204. Transfer of retail tavern all-beverages
 11 license -- retail all-beverages catering endorsement --
 12 state warehouse purchasing endorsement. (1) (a) Except as
 13 provided in subsection (1)(b), a retail tavern all-beverages
 14 license may be transferred to a new ownership and to a
 15 location outside the quota area for which it was originally
 16 issued only when the following criteria are met:

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

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

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

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

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

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

25 (e) A license issued under 16-4-209(1)(a) may not be

1 transferred to a location outside the quota area and the
2 exterior boundaries of the Montana Indian reservation for
3 which it was originally issued.

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

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

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

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

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

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

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

18 (3) (a) A retail all-beverages licensee is entitled to
19 an endorsement to his retail all-beverages license to permit
20 the licensee to purchase liquor and table wine from the
21 state warehouse.

22 (b) To obtain a state warehouse purchasing
23 endorsement, a licensee must submit a written application
24 and an annual fee of \$400 to the department."

25 Section 29. Section 16-4-205, MCA, is amended to read:

1 "16-4-205. Limit one license to person -- exceptions
 2 -- business in name of licensee. (1) No Except as provided
 3 in subsection (2), no person shall may be issued more than
 4 one retail all-beverages license in any year, ~~with the~~
 5 ~~exception-of-a.~~

6 (2) (a) A secured party may be issued an additional
 7 retail all-beverages license as the result of a default.
 8 Such a secured party shall transfer ownership of any
 9 additional retail all-beverages license within 180 days of
 10 issuance.

11 (b) A person may be issued both a retail all-beverages
 12 license and a package store license.

13 (3) No business may be carried on under any license
 14 issued under this chapter except in the name of the
 15 licensee."

16 Section 30. Section 16-4-207, MCA, is amended to read:

17 "16-4-207. Notice of application for retail
 18 all-beverages license -- publication -- protest. (1) When an
 19 application has been filed with the department for a retail
 20 all-beverages license to sell alcoholic beverages at -- retail
 21 or to transfer such license, the department shall promptly
 22 publish in a newspaper of general circulation in the city,
 23 town, or county from which the application comes a notice
 24 that such applicant has made application for such license
 25 and that protests against the issuance of a license to the

1 applicant may be mailed to a named administrator in the
 2 department of revenue within 10 days after the final notice
 3 is published. Notice of application for a new license shall
 4 be published once a week for 4 consecutive weeks. Notice of
 5 application for transfer of a license shall be published
 6 once a week for 2 consecutive weeks. Notice may be
 7 substantially in the following form:

8 NOTICE OF APPLICATION FOR RETAIL

9 ALL-BEVERAGES LICENSE

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

18 Dated Signed

19 ADMINISTRATOR

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

23 (3) If the administrator receives no written protests,
 24 the department may issue or transfer the license without
 25 holding a public hearing. If written protests against the

1 issuance or transfer of the license are received, the
2 department shall hold a public hearing at its office in
3 Helena."

4 Section 31. Section 16-4-208, MCA, is amended to read:

5 "16-4-208. Airport Retail public airport all-beverages
6 license. (1) The department of revenue shall issue one
7 retail all-beverages license, to be known as a retail public
8 airport all-beverages license, for use at each publicly
9 owned airport served by scheduled airlines and enplaning and
10 deplaning a minimum total of 20,000 passengers annually
11 when:

12 (a) application is made;

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

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

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

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

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

7 Section 32. Section 16-4-209, MCA, is amended to read:

8 "16-4-209. All-beverages license for tribal alcoholic
9 beverages licensee or enlisted men's, noncommissioned
10 officers', or officers' club. (1) Upon application and
11 qualification, the department shall issue an a retail
12 all-beverages license to:

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

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

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

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

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

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

7 Section 33. 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 retail resort ~~retail-liquor~~
 15 all-beverages licenses within a given resort area shall be
 16 \$2,000 for each license.

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

19 (a) except as hereinafter provided, for each license
 20 outside of incorporated cities and incorporated towns or in
 21 incorporated cities and incorporated towns with a population
 22 of less than 2,000, \$250 for a unit of a nationally
 23 chartered veterans' organization, \$800 FOR A PACKAGE STORE
 24 LICENSE, and \$400 for all other 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, \$900 FOR A PACKAGE STORE LICENSE, and \$500 for
 7 all other licensees;

8 (c) except as hereinafter provided, for each license
 9 in incorporated cities with a population of more than 5,000
 10 and less than 10,000 or within a distance of 5 miles
 11 thereof, measured in a straight line from the nearest
 12 entrance of the premises to be licensed to the nearest
 13 boundary of such city, \$500 for a unit of a nationally
 14 chartered veterans' organization, \$1,050 FOR A PACKAGE STORE
 15 LICENSE, and \$650 for all other licensees;

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

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

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

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

24 (8) The fee for one ~~all-beverage~~ retail public airport
 25 all-beverages license ~~to-a-public--airport~~ shall be \$800.

1 This license is nontransferable.

2 (9) The fee for issuing a package store license under
 3 [section 1] is:

4 (a) \$15,000, with a \$1,200 annual renewal fee, if the
 5 package store is in an incorporated city with 10,000 or more
 6 inhabitants or within a distance of 5 miles thereof,
 7 measured in a straight line from the nearest entrance of the
 8 store to be licensed to the nearest boundary of such city;
 9 and

10 (b) \$5,000, with ~~a--\$1,200~~ AN annual renewal fee AS
 11 PROVIDED IN SUBSECTION (7), if the package store is in any
 12 location not covered under subsection (9)(a).

13 ~~(9)~~(10) The license fees herein provided for are
 14 exclusive of and in addition to other license fees
 15 chargeable in Montana for the sale of alcoholic beverages.

16 ~~(10)~~(11) In addition to other license fees, the
 17 department of revenue may require a licensee to pay a late
 18 fee of 33 1/3% of any license fee delinquent on July 1 of
 19 the renewal year, 66 2/3% of any license fee delinquent on
 20 August 1 of the renewal year, and 100% of any license fee
 21 delinquent on September 1 of the renewal year."

22 Section 34. Section 16-4-503, MCA, is amended to read:

23 "16-4-503. City and county licenses -- fees. The city
 24 council of any incorporated town or city or the county
 25 commissioners outside of any incorporated town or city may

1 provide for the issuance of licenses to persons to whom a
 2 retail license has been issued under the provisions of this
 3 code and may fix license fees, not to exceed a sum equal to
 4 five-eighths of the fee for an a retail all-beverages
 5 license or 100% of the fee for a beer or beer-and-wine
 6 license collected by the department from such licensee under
 7 this code."

8 Section 35. Section 16-6-107, MCA, is amended to read:

9 "16-6-107. Disposal of forfeited alcoholic beverages
 10 -- report. (1) In every case in which a court or hearing
 11 examiner makes any order for the forfeiture of alcoholic
 12 beverages under any of the provisions of this code and in
 13 every case in which any claimant to an alcoholic beverage
 14 under the provisions of 16-6-105 or 16-6-106 fails to
 15 establish his claim and right thereto, the alcoholic
 16 beverage in question and the packages in which the alcoholic
 17 beverage is kept shall be delivered to the department. The
 18 department shall determine the market value of each
 19 forfeited alcoholic beverage which is found to be suitable
 20 for sale in the state ~~liquor-stores~~ warehouse and shall pay
 21 the amount so determined to the state treasurer after
 22 deducting therefrom the expenses necessarily incurred by the
 23 department for transporting the forfeited alcoholic beverage
 24 to the state ~~liquor--warehouses~~ warehouse. The alcoholic
 25 beverage suitable for sale shall be taken into stock by the

1 department and sold under the provisions of this code. All
 2 alcoholic beverages found to be unsuitable for sale in the
 3 state ~~liquor--stores~~ warehouse shall be destroyed by the
 4 department.

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

9 Section 36. Section 16-6-301, MCA, is amended to read:

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

19 (2) No person shall have or keep any liquor within the
 20 state which has not been purchased from the state of
 21 Montana. Nothing in this code shall prohibit any person
 22 entering this state from any other state or from any foreign
 23 country from having in his possession not to exceed 3 wine
 24 gallons of alcoholic liquor or beer which liquor or beer
 25 shall have been purchased in another state or foreign

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

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

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

21 (a) attempt to purchase any alcoholic beverage;

22 (b) directly or indirectly or upon any pretense or
 23 device, purchase any alcoholic beverage; or

24 (c) in consideration of the sale or transfer of any
 25 property or for any other consideration or at the time of

1 the transfer of any property, take or accept from any other
2 person any alcoholic beverage."

3 Section 37. Section 16-6-303, MCA, is amended to read:

4 "16-6-303. Sale of liquor not purchased from state
5 store warehouse forbidden -- penalty. It is unlawful for any
6 licensee to sell or keep for sale or have on his premises
7 for any purpose whatever any liquor except that ORIGINALLY
8 purchased from the state liquor-store warehouse, and any
9 licensee found in possession of or selling and keeping for
10 sale any liquor which was not ORIGINALLY purchased from a
11 the state liquor-store warehouse shall, upon conviction, be
12 punished by a fine of not less than \$500 or more than
13 \$1,500, by imprisonment for not less than 3 months or more
14 than 1 year, or by both such fine and imprisonment. If the
15 department is satisfied that any such liquor was knowingly
16 sold or kept for sale within the licensed premises by the
17 licensee or by his agents, servants, or employees, the
18 department shall immediately revoke the license. A LICENSEE
19 MAY PURCHASE LIQUOR FROM ANOTHER LICENSEE IF THE LIQUOR WAS
20 ORIGINALLY PURCHASED FROM THE STATE WAREHOUSE."

21 NEW SECTION. Section 38. Sale of existing state
22 retail liquor stores. (1) The department of revenue shall
23 negotiate contracts to sell, as soon as possible after [the
24 effective date of this section], all existing state retail
25 liquor stores, including agency stores, and the contracts

1 must have a July 1, 1988, closing date. The sales must be
2 made through a sealed bid procedure to qualified bidders. A
3 qualified bidder is a bidder who is eligible to receive a
4 package store license.

5 (2) The department shall establish a minimum sale
6 price for each state-operated store that may not be less
7 than 80% of the value of the store's inventory (at the
8 retail price, including taxes, determined by the department)
9 plus the cost of a package store license as provided in
10 16-4-501(9). The highest qualified bidder is entitled to
11 assume title to the store inventory, store furniture and
12 fixtures, lease, if any, and related merchandise and
13 equipment; except that if the bid of a store employee, an
14 owner leasing property to the department for operation of
15 the store, or a person operating the store under an agency
16 agreement is within 5% of the highest bid, he is entitled to
17 assume title. The successful bidder must be granted an
18 agency agreement to operate the store as a state liquor
19 store between the time title is assumed and July 1, 1988.
20 The department shall develop a list of items that will be
21 assumed by the highest qualified bidder.

22 (3) The highest qualified bidder must be issued a
23 package store license on July 1, 1988, and, notwithstanding
24 16-4-501(9), may not be charged a fee for issuance of the
25 license.

1 (4) A state store may be operated by the department
2 until it is sold and the sale is closed. If it is not sold
3 by July 1, 1988, the department shall return the inventory
4 remaining at the store to the central warehouse in Helena
5 and sell the other items referred to in subsection (2).

6 NEW SECTION. Section 39. Repealer. Sections 2-18-314,
7 16-2-101, 16-2-104, 16-2-105, 16-2-201, 16-2-301 THROUGH
8 16-2-303, and 16-3-307, MCA, are repealed.

9 NEW SECTION. Section 40. Extension of authority. Any
10 existing authority of the department of revenue to make
11 rules on the subject of the provisions of this act is
12 extended to the provisions of this act.

13 NEW SECTION. Section 41. Codification instruction.
14 Section 1 is intended to be codified as an integral part of
15 Title 16, and the provisions of Title 16 apply to section 1.

16 NEW SECTION. Section 42. Effective dates. (1)
17 Sections 1, ~~40, and 42 through 44~~ 38, AND 40 THROUGH 42 are
18 effective on passage and approval.

19 (2) The remaining sections are effective July 1, 1988.

-End-