

SB 131 INTRODUCED BY MANNING, PAVLOVICH, NISBET, ET AL.
TRANSFERRING ADMINISTRATION OF MONTANA ALCOHOLIC
BEVERAGE CODE TO DEPARTMENT OF COMMERCE

1/17	INTRODUCED		
1/17	REFERRED TO STATE ADMINISTRATION		
1/18	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
2/16	HEARING		
2/18	COMMITTEE REPORT--BILL PASSED		
2/20	2ND READING PASS MOTION FAILED	22	23
2/20	2ND READING INDEFINITELY POSTPONED	29	18

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 2 INTRODUCED BY *Senate* BILL NO. *131*
 3 *Richard E. Manning* *Tanaka* *Nisbet*
Strick

4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE
 5 AUTHORITY TO ADMINISTER AND ENFORCE THE MONTANA ALCOHOLIC
 6 BEVERAGE CODE FROM THE DEPARTMENT OF REVENUE TO THE
 7 DEPARTMENT OF COMMERCE; AND AMENDING SECTIONS 15-1-201,
 8 15-1-301, AND 16-1-106, MCA."

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

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

12 "15-1-201. Administration of revenue laws. (1) (a) The
 13 department of revenue shall have and exercise general
 14 supervision over the administration of the assessment of
 15 property and tax laws of the state, except Title 16,
 16 chapters 1 through 6, and over its agents and any officers
 17 of municipal corporations having any duties to perform under
 18 any of the laws of this state relating to taxation to the
 19 end that all assessments of property be made relatively just
 20 and equal at true value in substantial compliance with law,
 21 and The department may make rules to supervise the
 22 administration of all revenue laws of the state, except
 23 Title 16, chapters 1 through 6, and assist in their
 24 enforcement.

25 (b) The department of revenue shall adopt rules

1 specifying which types of property within the several
 2 classes are considered "comparable property" as described in
 3 15-1-101.

4 (c) The department shall also adopt rules specifying
 5 the methodology to be used in conducting sales assessment
 6 ratio studies and in determining the value-weighted mean
 7 sales assessment ratio for all commercial and industrial
 8 real property and improvements.

9 (2) The department shall confer with, advise, and
 10 direct officers of municipal corporations as to their
 11 duties, with respect to taxation, under the statutes of the
 12 state.

13 (3) The department shall collect annually from the
 14 proper officers of the municipal corporations information
 15 about the assessment of property, collection of taxes,
 16 receipts from licenses and other sources, the expenditure of
 17 public funds for all purposes, and such other information as
 18 may be needful and helpful in the work of the department in
 19 such form and upon such blanks as the department shall
 20 prescribe. It shall be the duty of all public officers so
 21 called upon to fill out properly and return promptly to the
 22 department all blanks so transmitted and in every way aid
 23 the department in its work. The department shall examine the
 24 records of all municipal corporations for such purposes as
 25 are considered needful or helpful."



1 Section 2. Section 15-1-301, MCA, is amended to read:

2 "15-1-301. Investigations by department. (1) ~~The~~
3 Except for those cases involving Title 16, chapters 1
4 through 6, the department of revenue may examine all cases
5 where evasion or violation of the laws for taxation of
6 property, proceeds, occupation, or business is alleged,
7 complained of, or discovered and ascertain wherein existing
8 laws are ineffective or are improperly or negligently
9 administered.

10 (2) (a) The department may inspect and examine or
11 cause an inspection and examination of the records of the
12 officers of any municipality whenever such officer has
13 failed, neglected, or refused to return properly the
14 information required by 15-1-201 within the time set by the
15 department. Upon completion of such inspection and
16 examination, the department shall transmit to the clerk or
17 other proper official of the municipality a statement of the
18 expenses incurred by the department to secure the necessary
19 information. Within 60 days after the receipt by the
20 municipality of the above statement, the same shall be
21 audited as other claims of the municipal corporation are
22 audited and shall be paid into the state treasury. If the
23 statement is not paid, the attorney general shall institute
24 an action in the proper court against the municipality to
25 recover the same.

1 (b) The officers responsible for the furnishing of the
2 information collected pursuant to 15-1-201 shall be jointly
3 and severally liable for any loss the municipality may
4 suffer through their delinquency. No payment may be made to
5 them for salary or on any other account until the cost of
6 such inspection and examination as provided above has been
7 paid into the treasury or to the proper officers of such
8 municipality. They shall also be subject to the other fines
9 and penalties as prescribed by law.

10 (3) The department may require persons to furnish
11 information concerning their capital, funded or other debt,
12 current assets and liabilities, cost and value of property,
13 earnings, operating and other expenses, taxes, and all other
14 facts which may enable the department to ascertain the value
15 of the relative burdens borne by all kinds of property and
16 occupations in the state.

17 (4) The department may summon witnesses to appear and
18 give evidence and to produce records, books, papers, and
19 documents relating to any matter which the department has
20 authority to investigate and determine.

21 (5) In any matter which the department has authority
22 to investigate and determine, it may cause the deposition of
23 witnesses residing within or without the state or absent
24 therefrom to be taken upon notice to the interested party,
25 if any, in like manner that depositions are taken in actions

1 pending in the district court."

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

3 "16-1-106. Definitions. As used in this code, the
4 following definitions apply:

5 (1) "Agency agreement" means an agreement between the
6 department and a person appointed to sell liquor as a
7 commission merchant rather than as an employee.

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

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

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

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

17 (6) "Brewer" means a person who produces malt
18 beverages.

19 (7) "Department" means the department of revenue
20 commerce provided for in 2-15-1801.

21 (8) "Immediate family" means a spouse, dependent
22 children, or dependent parents.

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

25 (10) "Industrial use" means a use described as

1 industrial use by the federal Alcohol Administration Act and
2 the federal rules and regulations of 27 CFR.

3 (11) "Liquor" means an alcoholic beverage except beer
4 and table wine.

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

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

16 (14) "Posted price" means the retail price of liquor as
17 fixed and determined by the department and in addition
18 thereto an excise and license tax as provided in this code.

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

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

25 (17) "Rules" means rules published by the department

1 pursuant to this code.

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

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

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 NEW SECTION. Section 4. Certain functions of
17 department of revenue transferred to department of commerce.
18 (1) The functions of the department of revenue and the
19 director of the department of revenue contained in Title 16,
20 chapters 1 through 6, are transferred to the department of
21 commerce and the director of the department of commerce.

22 (2) Unless inconsistent with this act, any reference
23 to the "department of revenue" or "department" (of revenue)
24 in Title 16, chapters 1 through 6, are changed to
25 "department of commerce" or "department" (of commerce). The

1 code commissioner shall conform internal references to these
2 changes.

3 (3) The governor by executive order may assign to the
4 department of commerce in a manner consistent with this act
5 functions allocated to the department of revenue by the 50th
6 legislature and not transferred by this act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB131, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

Transferring the authority to administer and enforce the Montana alcoholic beverage code from the Department of Revenue to the Department of Commerce.

ASSUMPTIONS:

1. The administration costs of the program will be the same whether the division is located in the Department of Commerce or the Department of Revenue.

FISCAL IMPACT:

None.

David L. Hunter DATE 1/21/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Richard E. Manning DATE 1/22/87
RICHARD MANNING, PRIMARY SPONSOR

Fiscal Note for SB131, as introduced.

SB-131