

SENATE BILL NO. 364
INTRODUCED BY MANNING

IN THE SENATE

FEBRUARY 18, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 20, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 21, 1987	PRINTING REPORT.
FEBRUARY 23, 1987	SECOND READING, DO PASS.
FEBRUARY 24, 1987	ENGROSSING REPORT.
FEBRUARY 25, 1987	THIRD READING, PASSED. AYES, 34; NOES, 16.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 3, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
MARCH 11, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 14, 1987	SECOND READING, CONCURRED IN.
MARCH 16, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 47.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 17, 1987	RECEIVED FROM HOUSE. SENT TO ENROLLING.
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Slagter BILL NO. *364*
Richard E. Manning

INTRODUCED BY _____
A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW HOLDERS OF SPECIAL PERMITS OR CATERING ENDORSEMENTS TO SELL BEER IN THE GRANDSTAND AND BLEACHER AREA OF A COUNTY FAIRGROUND OR PUBLIC SPORTS ARENA; AMENDING SECTIONS 16-3-103, 16-4-301, AND 16-4-204, MCA."

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

Section 1. Section 16-3-103, MCA, is amended to read:

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

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

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

(c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of advertisement

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or any other announcement, publication, or price list of or concerning liquor or where or from whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department and then only in accordance with such rules.

(2) This section shall not apply to:

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

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

(c) the sale and serving of beer in the grandstand and bleacher area of a county fairground or public sports arena under a special permit issued pursuant to 16-4-301 or a catering endorsement issued pursuant to 16-4-204."

Section 2. Section 16-4-301, MCA, is amended to read:

"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and issuance.

(1) (a) Any association or corporation conducting a picnic, convention, fair, civic or community enterprise, or sporting event shall in the discretion of the liquor division be entitled to a special permit to sell beer and table wine to the patrons of such event to be consumed within the enclosure wherein the event is held, except as provided in



1 subsection (1)(d).

2 (b) The application of any such association or
3 corporation shall be presented 3 days in advance and shall
4 describe the location of such enclosure where such event is
5 to be held, the nature of the event, and the period when it
6 is contemplated that the event will be held. The application
7 shall be accompanied by the amount of the permit fee and a
8 written statement of approval of the premises where the
9 event is to be held issued by the department of health and
10 environmental sciences and the local law enforcement agency
11 that has jurisdiction over the premises where the event is
12 to be held.

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

19 (d) A special permit issued under this subsection (1)
20 for the purpose of selling and serving beer at an event
21 conducted on the premises of a county fairground or public
22 sports arena authorizes the permit holder to sell and serve
23 beer in the grandstand and bleacher area of the premises, as
24 well as from a booth, stand, or other fixed place on the
25 premises.

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

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

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

19 Section 3. Section 16-4-204, MCA, is amended to read:

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

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

1 original quota area exceeded the quota for that area by at
2 least 25% in the most recent census prescribed in 16-4-502;

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

8 (A) by more than 33%; or

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

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

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

24 (c) For 5 years after the transfer of a license
25 between quota areas under subsection (1)(a), the license may

1 not be mortgaged or pledged as security and may not be
2 transferred to another person except for a transfer by
3 inheritance upon the death of the licensee.

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

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

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

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

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

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

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

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

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

25 (g) A catering endorsement issued for the purpose of

1 selling and serving beer at a special event conducted on the
 2 premises of a county fairground or public sports arena
 3 authorizes the licensee to sell and serve beer in the
 4 grandstand and bleacher area of the premises, as well as
 5 from a booth, stand, or other fixed place on the premises."

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

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

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INTRODUCED BY *Senator* BILL NO. *364*
Richard E. Manning

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

(c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of advertisement

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or any other announcement, publication, or price list of or concerning liquor or where or from whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department and then only in accordance with such rules.

(2) This section shall not apply to:

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

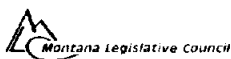
(b) the receipt or transmission of a telegram or letter by any telegraph agent or operator or post-office employee in the ordinary course of his employment as such agent, operator, or employee; or

(c) the sale and serving of beer in the grandstand and bleacher area of a county fairground or public sports arena under a special permit issued pursuant to 16-4-301 or a catering endorsement issued pursuant to 16-4-204."

Section 2. Section 16-4-301, MCA, is amended to read:

"16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and issuance.

(1) (a) Any association or corporation conducting a picnic, convention, fair, civic or community enterprise, or sporting event shall in the discretion of the liquor division be entitled to a special permit to sell beer and table wine to the patrons of such event to be consumed within the enclosure wherein the event is held, except as provided in



1 subsection (1)(d).

2 (b) The application of any such association or
3 corporation shall be presented 3 days in advance and shall
4 describe the location of such enclosure where such event is
5 to be held, the nature of the event, and the period when it
6 is contemplated that the event will be held. The application
7 shall be accompanied by the amount of the permit fee and a
8 written statement of approval of the premises where the
9 event is to be held issued by the department of health and
10 environmental sciences and the local law enforcement agency
11 that has jurisdiction over the premises where the event is
12 to be held.

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

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

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11 veterans' organization or lodge of a recognized national
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14 the date it will be used.

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

1 original quota area exceeded the quota for that area by at
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6 did not exceed that area's quota in the most recent census
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10 inhabitants and within a distance of 5 miles from its
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18 event is held.

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20 and an annual fee of \$250 must be submitted to the
21 department for its approval.

22 (c) A written application for each event for which the
23 licensee intends to provide catering services, the written
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6 NEW SECTION. Section 4. Extension of authority. Any
 7 existing authority of the department of revenue to make
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-End-

1 INTRODUCED BY Senate BILL NO. 364
2 Richard E. Manning

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

25 (g) A catering endorsement issued for the purpose of

1 selling and serving beer at a special event conducted on the
 2 premises of a county fairground or public sports arena
 3 authorizes the licensee to sell and serve beer in the
 4 grandstand and bleacher area of the premises, as well as
 5 from a booth, stand, or other fixed place on the premises."

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

-End-

1 SENATE BILL NO. 364
2 INTRODUCED BY MANNING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW HOLDERS OF
5 SPECIAL PERMITS OR CATERING ENDORSEMENTS TO SELL BEER IN THE
6 GRANDSTAND AND BLEACHER AREA OF A COUNTY FAIRGROUND OR
7 PUBLIC SPORTS ARENA; AMENDING SECTIONS 16-3-103, 16-4-301,
8 AND 16-4-204, MCA."

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

11 Section 1. Section 16-3-103, MCA, is amended to read:

12 "16-3-103. Unlawful sales solicitation or advertising

13 -- exceptions. (1) No person within the state shall:

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

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

24 (c) exhibit, publish, or display or permit to be
25 exhibited, published, or displayed any form of advertisement

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

6 (2) This section shall not apply to:

7 (a) the department, any act of the department, any
8 state liquor store; or

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

13 (c) the sale and serving of beer in the grandstand and
14 bleacher area of a county fairground or public sports arena
15 under a special permit issued pursuant to 16-4-301 or a
16 catering endorsement issued pursuant to 16-4-204."

17 Section 2. Section 16-4-301, MCA, is amended to read:

18 "16-4-301. Special permits to sell all alcoholic
19 beverages, beer, and table wine -- application and issuance.

20 (1) (a) Any association or corporation conducting a picnic,
21 convention, fair, civic or community enterprise, or sporting
22 event shall in the discretion of the liquor division be
23 entitled to a special permit to sell beer and table wine to
24 the patrons of such event to be consumed within the
25 enclosure wherein the event is held, except as provided in

1 subsection (1)(d).

2 (b) The application of any such association or
3 corporation shall be presented 3 days in advance and shall
4 describe the location of such enclosure where such event is
5 to be held, the nature of the event, and the period when it
6 is contemplated that the event will be held. The application
7 shall be accompanied by the amount of the permit fee and a
8 written statement of approval of the premises where the
9 event is to be held issued by the department of health and
10 environmental sciences and the local law enforcement agency
11 that has jurisdiction over the premises where the event is
12 to be held.

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

19 (d) A special permit issued under this subsection (1)
20 for the purpose of selling and serving beer at an event
21 conducted on the premises of a county fairground or public
22 sports arena authorizes the permitholder to sell and serve
23 beer in the grandstand and bleacher area of the premises, as
24 well as from a booth, stand, or other fixed place on the
25 premises.

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

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

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

19 Section 3. Section 16-4-204, MCA, is amended to read:

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

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

1 original quota area exceeded the quota for that area by at
2 least 25% in the most recent census prescribed in 16-4-502;

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

8 (A) by more than 33%; or

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

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

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

24 (c) For 5 years after the transfer of a license
25 between quota areas under subsection (1)(a), the license may

1 not be mortgaged or pledged as security and may not be
2 transferred to another person except for a transfer by
3 inheritance upon the death of the licensee.

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

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

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

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

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

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

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

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

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

25 (g) A catering endorsement issued for the purpose of

1 selling and serving beer at a special event conducted on the
 2 premises of a county fairground or public sports arena
 3 authorizes the licensee to sell and serve beer in the
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