

HOUSE BILL 627

Introduced by Simon, et al.

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2/10	Referred to Business & Economic Development
2/14	Fiscal Note Requested
2/16	Hearing
2/20	Fiscal Note Received
2/22	Fiscal Note Printed
3/20	Tabled in Committee

1 **House** BILL NO. **627**
 2 INTRODUCED BY *Simon* *Capron* *Kamner* *Latimer*
 3 *Bradley* *Forrest* *Mark* *Harold* *Joe* *DeBaryshe*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT WITHDRAWING THE STATE
 5 FROM THE RETAIL LIQUOR AND TABLE WINE SALE BUSINESS;
 6 PROVIDING FOR THE SALE OF STATE LIQUOR STORES; CREATING A
 7 PACKAGE STORE LICENSE; AMENDING SECTIONS 2-17-101, 2-18-203,
 8 2-18-301, 2-18-303 THROUGH 2-18-305, 16-1-103, 16-1-105,
 9 16-1-106, 16-1-201, 16-1-202, 16-1-301 THROUGH 16-1-304,
 10 16-1-401, 16-1-402, 16-1-404, 16-1-411, 16-2-101, 16-2-103,
 11 16-2-106 THROUGH 16-2-108, 16-2-203, 16-3-103, 16-3-106,
 12 16-3-401, 16-3-403, 16-4-201, 16-4-202, 16-4-204, 16-4-205,
 13 16-4-207 THROUGH 16-4-209, 16-4-501, 16-6-107, 16-6-301, AND
 14 16-6-303, MCA; REPEALING SECTIONS 2-18-314, 16-2-104,
 15 16-2-105, 16-2-201, 16-2-301 THROUGH 16-2-303, AND 16-3-307,
 16 MCA; AND PROVIDING EFFECTIVE DATES."

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

19 NEW SECTION. **Section 1. Package store license.** (1)
 20 Except as provided in subsection (2), an applicant who meets
 21 the requirements of this title must be issued a license to
 22 purchase liquor from the state liquor facilities and to sell
 23 liquor and beer at retail for off-premises consumption only.
 24 The license is a package store license.

25 (2) Except as provided in [section 43], a license may

1 not be issued under this section until January 1, 1992.

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

3 "2-17-101. Allocation of space. (1) The department of
 4 administration shall periodically survey the needs of state
 5 agencies other than the university system and shall assign
 6 space in state buildings to such agencies. No state agency
 7 shall lease, rent, or purchase property for quarters without
 8 prior approval of the department.

9 (2) (a) The location of the chambers for the house of
 10 representatives shall be determined in the sole discretion
 11 of the house of representatives. The location of the
 12 chambers of the senate shall be determined in the sole
 13 discretion of the senate.

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

19 (3) For state agencies located in a city other than
 20 Helena, the department of administration shall consolidate
 21 the offices of these agencies in a single, central location
 22 within the city whenever such consolidation would result in
 23 a cost savings to the state while permitting sufficient
 24 space and facilities for the agencies. The department may
 25 purchase, lease, or acquire, by exchange or otherwise, land

1 and buildings in the city to achieve consolidation. State
 2 ~~retail-liquor-stores-and-liquor-retail-agencies-are-exempted~~
 3 ~~from-such-consolidation-~~"

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

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

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

22 (3) The period of time for which retroactive pay for a
 23 classification appeal may be awarded under parts 1 through 3
 24 of this chapter or under 2-18-1011 through 2-18-1013 may not
 25 extend beyond 30 days prior to the date the appeal was

1 filed. This provision shall not affect a classification or
 2 position appeal already in process on April 26, 1977."

3 **Section 4.** Section 2-18-301, MCA, is amended to read:

4 "2-18-301. Purpose and intent of part -- rules. (1) The
 5 purpose of this part is to provide the compensation
 6 necessary to attract and retain competent and qualified
 7 employees in order to perform the services the state is
 8 required to provide to its citizens.

9 (2) It is the intent of the legislature that, for the
 10 biennium ending June 30, 1989, the:

11 (a) pay schedules provided for in 2-18-312, through
 12 2-18-313, and 2-18-315 supersede any other plan or systems
 13 established through collective bargaining after the
 14 adjournment of the 50th legislature;

15 (b) pay levels provided for in 2-18-312, through
 16 2-18-313, and 2-18-315 may not be increased through
 17 collective bargaining after adjournment of the 50th
 18 legislature; and

19 (c) total funds required to implement the pay schedules
 20 provided for in 2-18-312, through 2-18-313, and 2-18-315 for
 21 any employee group or bargaining unit may not be increased
 22 through collective bargaining over the amount appropriated
 23 by the 50th legislature.

24 (3) The department shall administer the pay program
 25 established by the legislature on the basis of merit,

1 internal equity, and competitiveness to external labor
2 markets when fiscally able.

3 (4) The department may promulgate rules not
4 inconsistent with the provisions of this part, collective
5 bargaining statutes, or negotiated contracts to carry out
6 the purposes of this part."

7 **Section 5.** Section 2-18-303, MCA, is amended to read:

8 "2-18-303. Procedures for utilizing pay schedule. (1)
9 The pay schedule provided in 2-18-312 shall be implemented
10 as follows:

11 (a) The pay schedule provided in 2-18-312 indicates the
12 annual compensation for the fiscal years ending June 30,
13 1988, and June 30, 1989, for each grade and step for
14 positions classified under the provisions of part 2 of this
15 chapter.

16 (b) Each new employee shall advance from step 1 to step
17 2 of a grade after successfully completing 6 months of
18 probationary service. The anniversary date of an employee
19 shall be established at the end of the probationary period
20 in accordance with rules promulgated by the department.

21 (c) (i) The compensation of each employee on the first
22 day of the first pay period in fiscal year 1988 shall be
23 that amount which corresponds to the grade and step occupied
24 on the last day of the preceding fiscal year of 1987.

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

1 of the first pay period in fiscal year 1989 shall be that
2 amount which corresponds to the grade and step occupied on
3 the last day of the fiscal year 1988.

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

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

11 (a) (i) The pay schedules provided for in 2-18-313
12 indicate the annual compensation for the contracted school
13 term for teachers employed by institutions under the
14 authority of the department of institutions or the
15 department of family services for fiscal years 1988 and
16 1989.

17 (ii) The compensation of each teacher on the first day
18 of the first pay period in July 1987 shall be that amount
19 which corresponds to his level of academic achievement and
20 the step occupied on June 30, 1987.

21 (iii) The compensation of each teacher on the first day
22 of the first pay period in July 1988 shall be that amount
23 which corresponds to his level of achievement and the step
24 occupied on June 30, 1987.

25 ~~{b}--(i)--The-pay-schedule-provided-in-2-18-314-indicates~~

1 the maximum hourly compensation for fiscal years ending June
2 30, 1988, and June 30, 1989, for those employees in liquor
3 store occupations who have collectively bargained separate
4 classification and pay plans.

5 (ii) The compensation of each employee on the first day
6 of the first pay period in fiscal year 1988 or 1989, as the
7 case may be, shall be that amount which corresponds to that
8 grade occupied on the last day of the preceding fiscal year.

9 (c)(b) (i) The pay schedule provided in 2-18-315
10 indicates the maximum hourly compensation for fiscal years
11 ending June 30, 1988, and June 30, 1989, for employees in
12 apprentice trades and crafts and other blue-collar
13 occupations recognized in the state blue-collar
14 classification plan who are members of units that have
15 collectively bargained separate classification and pay
16 plans.

17 (ii) The compensation of each employee on the first day
18 of the first pay period in fiscal year 1988 or 1989, as the
19 case may be, shall be that amount which corresponds to that
20 grade occupied on the last day of the preceding fiscal year.

21 (4) (a) (i) No member of a bargaining unit may receive
22 the amounts indicated in the respective pay schedules
23 provided in 2-18-312, through 2-18-313, and 2-18-315 until
24 the bargaining unit of which he is a member ratifies a
25 completely integrated collective bargaining agreement

1 covering the biennium ending June 30, 1989.

2 (ii) In the event that negotiation and ratification of a
3 completely integrated collective bargaining agreement as
4 required by subsection (4)(a)(i) of this section are not
5 completed by July 1, 1987, retroactivity to that date may be
6 negotiated.

7 (iii) In the event that negotiation and ratification of
8 a completely integrated collective bargaining agreement as
9 required by subsection (4)(a)(i) of this section are not
10 completed by July 1, 1987, members of the bargaining unit
11 involved will continue to receive the compensation they were
12 receiving as of June 30, 1987.

13 (b) Methods of administration not inconsistent with the
14 purpose of this part and necessary to properly implement the
15 pay schedules provided in 2-18-312, through 2-18-313, and
16 2-18-315 may be provided for in collective bargaining
17 agreements.

18 (5) The current wage or salary of an employee shall not
19 be reduced by the implementation of the pay schedules
20 provided for in 2-18-312, through 2-18-313, and 2-18-315.

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

25 (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."

Section 6. Section 2-18-304, MCA, is amended to read:

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

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

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

period; or

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

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

Section 7. Section 2-18-305, MCA, is amended to read:

"2-18-305. Allocation between wages and group benefits.

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

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

Section 8. Section 16-1-103, MCA, is amended to read:

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

Section 9. Section 16-1-105, MCA, is amended to read:

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

Section 10. Section 16-1-106, MCA, is amended to read:

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

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

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

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

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

~~{5}{4}~~ "Beer importer" means a person other than a 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 licensed under
25 [section 1] to sell liquor and beer at retail for

1 ~~off-premises consumption 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 to the state warehouse, and in addition thereto
7 an excise and license tax as any taxes provided in this
8 code. The term does not include costs incurred in shipping
9 the liquor 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 department
21 pursuant to this code.
22 ~~(18)~~"State liquor facility" means a facility owned or
23 under control of the department for the purpose of
24 receiving, storing, transporting, or selling alcoholic
25 beverages.

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

(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.

~~{20}{19}~~ "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}{20}~~ "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}{21}~~ "Table wine" means wine as defined below which
contains not more than 16% alcohol by volume.

~~{23}{22}~~ "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}{23}~~ "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 11. Section 16-1-201, MCA, is amended to read:

"16-1-201. Acts not covered by code. (1) Nothing in
this code shall prevent any brewer, distiller, or other
person, duly licensed under the provisions of any statute of
the United States of America for the manufacture of
alcoholic beverages, from having or keeping alcoholic
beverages in a place and in the manner authorized by or
under any such statute.

(2) It is hereby declared to be the policy of the state
of Montana that the manufacture of alcoholic beverages,
including the distillation, rectification, bottling, and

1 processing as these terms are defined under the provisions
 2 of the laws of the United States, shall be authorized and
 3 permitted by any brewer, distiller, rectifier, or other
 4 person duly licensed under any provision of any statute of
 5 the United States of America in a place and in the manner
 6 authorized by or under any statute of the United States,
 7 provided the department may make such rules as the
 8 department deems necessary with respect thereto not
 9 inconsistent with this code or with the statutes of the
 10 United States of America or regulations issued under the
 11 provisions of the federal Alcohol Administration Act, Title
 12 27, United States Code, sections 201 through 212, inclusive,
 13 or regulations issued under the provisions of the Internal
 14 Revenue Code, Title 26, United States Code, sections 5001
 15 through 5693, inclusive.

16 (3) Nothing in this code shall prevent:

17 (a) the sale of liquor ~~or-table-wine~~ by any person to
 18 the department;

19 (b) the purchase, importation, and sale of liquor and
 20 ~~table-wine~~ by the department for the purposes of and in
 21 accordance with this code."

22 **Section 12.** Section 16-1-202, MCA, is amended to read:

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

1 alcohol, prevent the manufacture, sale, purchase, or
 2 consumption of any:

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

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

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

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

24 **Section 13.** Section 16-1-301, MCA, is amended to read:

25 "16-1-301. Administration of code. The department shall

1 have the powers and duties to administer the Montana
2 Alcoholic Beverage Code, ~~including the general control,~~
3 ~~management, and supervision of all state liquor stores.~~"

4 **Section 14.** Section 16-1-302, MCA, is amended to read:

5 "16-1-302. Functions, powers, and duties of department.

6 (1) The department shall have the following functions,
7 duties, and powers:

8 (1)(a) to buy, import, have in its possession for sale,
9 and sell through the state warehouse liquors and table wine
10 to package store licensees and retail tavern all-beverages
11 licensees with state warehouse purchasing endorsements in
12 the manner set forth in this code;

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

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

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

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

24 (6)(d) to employ store managers a state warehouse
25 manager and also every officer, investigator, clerk, or

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

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

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

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

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

19 **Section 15.** Section 16-1-303, MCA, is amended to read:

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

25 (2) Without thereby limiting the generality of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 "16-1-304. Prohibited acts within division. (1) No An
21 officer or employee of the liquor division~~including those~~
22 ~~engaged in the sale of liquor at the various state liquor or~~
23 ~~table--wine--stores~~, may not be directly or indirectly
24 interested or engaged in any other business or undertaking
25 dealing in liquor ~~or table--wine~~, whether as owner, part

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

4 (2) No A member or employee of the division or any
5 employee of the state may not solicit or receive directly or
6 indirectly any commission, remuneration, or gift whatsoever
7 from any person or corporation having sold, selling, or
8 offering liquor ~~or table--wine~~ for sale to the state or
9 division pursuant to this code.

10 (3) No A person selling or offering for sale to or
11 purchasing liquor ~~or--table--wine~~ from the state liquor
12 division may either not directly or indirectly offer to pay
13 any commission, profit, or remuneration or make any gift to
14 any member or employee of the division, to any employee of
15 the state, or to anyone on behalf of such any member or
16 employee.

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

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

1 an analysis of each brand and may submit a representative
2 sample not exceeding 25 fluid ounces of such the merchandise
3 to the division.

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

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

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

25 **Section 17.** Section 16-1-401, MCA, is amended to read:

1 "16-1-401. Liquor excise tax. (1) The department is
2 hereby authorized and directed to charge, receive, and
3 collect at the time of the sale and delivery of any liquor
4 as authorized under any provision of the laws of the state
5 of Montana an excise tax at the rate of: \$1.80 a liter.

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

12 ~~{b}--13.8%--of--the--retail--selling--price--on--all--liquor~~
13 ~~sold--and--delivered--in--the--state--by--a--company--that~~
14 ~~manufactured,--distilled,--rectified,--bottled,--or--processed,~~
15 ~~and--sold--not--more--than--200,000--proof--gallons--of--liquor~~
16 ~~nationwide--in--the--calendar-year--preceding--imposition--of--the~~
17 ~~tax--pursuant--to--this-section;~~

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

23 **Section 18.** Section 16-1-402, MCA, is amended to read:

24 "16-1-402. Payment of excise tax by carriers. (1) Every
25 airline or railroad operating in the state of Montana and

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

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

(a) the average liquor used per departure;

(b) the number of departures from Montana on which liquor is served;

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

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

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

Section 19. Section 16-1-404, MCA, is amended to read:

"16-1-404. License tax on liquor -- amount -- distribution of proceeds. (1) The department ~~is hereby authorized--and--directed--to~~ shall charge, receive, and collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax at the rate of 75 cents a liter.

~~(a)--10%--of--the--retail--selling--price--on--all--liquor--sold--and--delivered--in--the--state--by--a--company--that--manufactured,~~

~~distilled,--rectified,--bottled,--or--processed,--and--sold--more--than--200,000--proof--gallons--of--liquor--nationwide--in--the--calendar--year--preceding--imposition--of--the--tax--pursuant--to--this--section;~~

~~(b)--8.6%--of--the--retail--selling--price--on--all--liquor--sold--and--delivered--in--the--state--by--a--company--that--manufactured,--distilled,--rectified,--bottled,--or--processed,--and--sold--not--more--than--200,000--proof--gallons--of--liquor--nationwide--in--the--calendar--year--preceding--imposition--of--the--tax--pursuant--to--this--section;~~

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

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

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

1 liquor in all of the cities and towns of the county.

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

9 **Section 20.** Section 16-1-411, MCA, is amended to read:
 10 "16-1-411. Tax on wine. (1) A tax of 27 cents per liter
 11 is hereby levied and imposed on table wine imported by any
 12 table wine distributor ~~or the department~~.

13 (2) (a) The tax on table wine imported by a table wine
 14 distributor shall be paid by the table wine distributor by
 15 the 15th day of the month following sale of the table wine
 16 from the table wine distributor's warehouse. Failure to file
 17 a table wine tax return or failure to pay the tax required
 18 by this section subjects the table wine distributor to the
 19 penalties and interest provided for in 16-1-409.

20 (b) The tax on table wine imported ~~by the department~~
 21 shall be collected at the time of sale.

22 (3) The tax paid by a table wine distributor in
 23 accordance with subsection (2)(a) and the tax collected by
 24 the department in accordance with subsection (2)(b) shall be
 25 distributed as follows:

(a) 16 cents to the state general fund; and

(b) of the remaining 11 cents:

(i) 8.34 cents to the state special revenue fund to the credit of the department of institutions for the treatment, rehabilitation, and prevention of alcoholism;

(ii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the counties, based on population, for the purpose established in 16-1-404; and

(iii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

(4) The tax computed and paid in accordance with this section shall be the only tax imposed by the state or any of its subdivisions, including cities and towns."

Section 21. Section 16-2-101, MCA, is amended to read:

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

~~{b}--The department shall enter into an agency agreement~~

~~or--employ--the--necessary--help--to--operate--said--stores--and shall designate the duties to be performed by the--agent--or employees--~~

~~{c}~~ Once established, a store shall the state warehouse may not be closed; ~~converted to an agency store; or sold by the department unless:~~

~~{i}--the store is returning less than a--10%--profit--to the state; or~~

~~{ii}~~ the closure or sale is approved by the legislature.

(2) The department may from time to time fix the prices wholesale price at which the various classes, varieties, and brands of liquor and ~~table--wine~~ may be sold; ~~and prices shall be the same at all state stores.~~

~~{3}--{a}--State liquor--stores--must--be--considered--for closure;--conversion;--or--sale--only--when--a--store--lease expires;--Prior to the expiration of a lease; the--department may--conduct--a--financial--profitability analysis using the criteria in subsection {1}{c}{i};--In computing profit levels of state operated stores; the costs of the licensing--bureau and--the--legal--and--enforcement--division;--other--than inspection costs directly attributable to liquor stores; may not be included as expenses;--The revenue oversight committee must be informed of--all--plans--for--conversion;--sale;--or closure of state liquor stores;~~

~~{b}--No agency stores shall be located in or adjacent to~~

1 grocery--stores--in-communities-with-populations-over-3,000-
 2 This-provision--is--applicable--only--to--agency--agreements
 3 entered-into-after-May-11,--1987-

4 {4}--Agency--stores--must--receive--commissions-based-on
 5 adjusted-gross-sales-as-follows-

6 {a}--a-10%-commission-for-agencies-in--communities--with
 7 less-than-3,000-in-population;

8 {b}--a-commission-established-by-competitive-bidding-for
 9 agencies-in-communities-with-3,000-or-more-in-population-

10 {5}{3} The department shall maintain sufficient
 11 inventory in the state warehouse in order to meet a monthly
 12 service level of at least 97%."

13 **Section 22.** Section 16-2-103, MCA, is amended to read:

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

21 (2) The invoice ~~shall~~ must show the date of purchase,
 22 name of employee making the sale, the quantity of each kind
 23 of liquor or--table--wine purchased, the price paid therefor,
 24 the name of the licensee, and the number of the license,
 25 with--such and other information as may be required by the

1 department.

2 (3) The licensee shall keep ~~and--retain~~ his duplicate
 3 invoice of all purchases made by him from the state liquor
 4 store, ~~which~~ warehouse for 3 years. The invoices shall at
 5 all times be subject to inspection by the duly authorized
 6 officers, agents, and employees of the department."

7 **Section 23.** Section 16-2-106, MCA, is amended to read:

8 "16-2-106. Purchase price in advance. A-store The state
 9 warehouse manager and other authorized state warehouse
 10 employees may sell to any person licensee such liquor and
 11 table--wine as that person licensee is entitled to purchase
 12 it in conformity with the provisions of this code and the
 13 rules ~~made-thereunder~~ adopted under this code, provided that
 14 no delivery ~~shall~~ may not take place until the purchaser
 15 licensee has paid the purchase price."

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

17 "16-2-107. No open alcoholic beverage container or
 18 alcoholic beverage consumption on premises of state package
 19 store. No--officer,--clerk,--or--agent--of-the-department A
 20 person owning or employed in a state package store ~~shall~~ may
 21 not allow any alcoholic beverage container to be opened on
 22 the premises of a--state the store or allow any alcoholic
 23 beverage to be consumed on the premises of a state store;
 24 ~~nor--shall-any~~ warehouse. A person may not open an alcoholic
 25 beverage container or consume any alcoholic beverage on such

1 the premises."

2 **Section 25.** Section 16-2-108, MCA, is amended to read:

3 "16-2-108. Disposition of money received. All moneys
4 money received from the sale of liquor and table wine at the
5 state ~~liquor-stores~~ warehouse shall be deposited in the
6 enterprise fund in the state treasury to the credit of the
7 department. The department ~~is--hereby--authorized--to~~ may
8 purchase liquor and table wine from moneys money deposited
9 to its account in the enterprise fund. The department shall
10 pay from its account in the enterprise fund its
11 administrative expenses, subject to the limits imposed by
12 legislative appropriation. No An obligation created or
13 incurred by the department may ~~ever~~ not be or become a debt
14 or claim against the state of Montana but ~~shall-be~~ is
15 payable by the department solely from funds derived from the
16 operation of the state ~~liquor--stores~~ warehouse. The
17 department shall pay into the state treasury to the credit
18 of the general fund the receipts from all taxes and licenses
19 collected by it and also the net proceeds from the operation
20 of the state ~~liquor-stores~~ warehouse."

21 **Section 26.** Section 16-2-203, MCA, is amended to read:

22 "16-2-203. Department sales to licensees. The
23 department may sell through ~~its-stores~~ the state warehouse
24 to licensees licensed under this code all kinds of liquor
25 ~~and-table-wine~~ at the posted price thereof ~~in-the--store--in~~

1 ~~which-the-liquor-and-table-wine-are-sold~~. All sales shall be
2 upon a cash basis."

3 **Section 27.** Section 16-3-103, MCA, is amended to read:

4 "16-3-103. Unlawful sales solicitation or advertising
5 -- exceptions. (1) No A person within the state ~~shall~~ may
6 not:

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

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

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

24 (2) This section ~~shall~~ does not apply to:

25 (a) the department; or any act of the department; ~~--any~~

1 ~~state-liquor-store;~~

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

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

10 **Section 28.** Section 16-3-106, MCA, is amended to read:

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

1 (2) ~~No~~ A common carrier or any other person ~~shall~~ may
2 ~~not~~ open, break, or allow to be opened or broken any package
3 or vessel containing an alcoholic beverage or drink or use
4 or allow to be drunk or used any alcoholic beverage
5 ~~therefrom~~ while being carried or conveyed."

6 **Section 29.** Section 16-3-401, MCA, is amended to read:

7 "16-3-401. Public policy. The public policy of the
8 state of Montana is to maintain a system for the importation
9 and sale of table wine ~~by-the--state--through--state--liquor~~
10 ~~facilities~~ and provide for, regulate, and control the
11 acquisition, importation, and distribution of table wine by
12 licensed table wine distributors ~~and-the-state.~~"

13 **Section 30.** Section 16-3-403, MCA, is amended to read:

14 "16-3-403. To whom table wine distributor may sell. (1)
15 A table wine distributor may sell and deliver table wine
16 purchased or acquired by him to:

17 {a} another table wine distributor, retailer, or common
18 carrier which holds a license issued by the department of
19 revenue;

20 {b} ~~--the-department;--and~~

21 {c} ~~--a-commission-agent-of-the-department.~~

22 (2) It shall be unlawful for any table wine distributor
23 to sell, deliver, or give away any table wine to be consumed
24 on such distributor's premises or to give, sell, deliver, or
25 distribute any table wine purchased or acquired by him to

the public."

Section 31. Section 16-4-201, MCA, is amended to read:

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

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

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

tavern all-beverages license for each additional 1,000 inhabitants;

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

(2) The number of the inhabitants in such incorporated cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits thereof, ~~shall~~ govern the number of retail tavern all-beverages licenses that may be issued for use within such the cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail tavern all-beverages licenses that may be issued for use in both ~~of-such~~ municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both ~~of-such~~ municipalities and may not exceed the foregoing limitations contained in subsection (1). The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from

1 the nearest entrance of the premises proposed for licensing
2 to the nearest corporate boundary of the city or town.

3 (3) Retail tavern all-beverages licenses of issue on
4 March 7, 1947, and retail tavern all-beverages licenses
5 issued under 16-4-209, which are in excess of the foregoing
6 limitations ~~shall--be~~ contained in subsection (1) are
7 renewable, but no new licenses may be issued in violation of
8 such the limitations.

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

20 (5) The number of retail tavern all-beverages licenses
21 that the department may issue for use at premises situated
22 outside of any incorporated city or incorporated town and
23 outside of the area within a distance of 5 miles from the
24 corporate limits thereof of the incorporated city or town
25 may not be more than one license for each 750 population of

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

3 **Section 32.** Section 16-4-202, MCA, is amended to read:

4 "**16-4-202. Resort Retail resort all-beverages licenses.**

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

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

21 (3) The department shall determine that the area for
22 which licenses are to be issued is a resort area~~7~~. such The
23 determination to shall be made under and pursuant to rules
24 ~~to--be--first--promulgated--on--or--before--December--31--1975~~
25 adopted by the department.

1 (4) In addition to the other requirements of this code,
2 a resort area, for the purposes of qualification for the
3 issuance of a resort retail all-beverages license, must have
4 a current actual valuation of resort or recreational
5 facilities, including land and improvements ~~thereon~~, of not
6 less than \$500,000, at least half of which valuation must be
7 for a structure or structures within the resort area, and
8 must be under the sole ownership or control of one person or
9 entity at the time of the filing of the resort area plat
10 referred to in subsection (5) of this section. The word
11 "control" shall mean lands held under lease, option, or
12 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, and designating the ownership of the lands
16 within the resort area, ~~which~~ The plat must be verified by
17 the resort developer or landowner and filed with the
18 department prior to the filing of any applications by
19 individuals for licenses within the resort area. ~~Such~~ The
20 plat must show the location and general design of the
21 buildings and other improvements to be built in ~~said the~~
22 area in which resort retail all-beverages licenses are to or
23 may be located. A master plan for the development of the
24 area may be filed by the resort developer in satisfaction of
25 this 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 of the hearing, with a description of the location
8 of the proposed resort area, in a newspaper published in the
9 county or counties in which the resort is located, once a
10 week for 4 consecutive weeks. Each resort developer or
11 landowner shall, at the time of filing his application, pay
12 to the department an amount sufficient to cover the costs of
13 ~~said the~~ publication.

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

17 (8) Within 30 days of the hearing, the department shall
18 accept or reject the plat. If rejected the department must
19 state its reasons and set forth the conditions, if any,
20 under which the plat will be accepted, ~~and-the~~ The decision
21 of 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 a
24 resort may not be changed without full hearing as ~~above~~
25 provided in this section and the prior approval of the

department, ~~which--approval~~ Approval shall be determined according to public convenience and necessity.

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

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

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

(11) In addition to the restrictions on sale or transfer of a license as provided in 16-4-204 and 16-4-404, ~~no a~~ resort retail all-beverages license may not be sold or transferred for operation at a location outside of the boundaries of the resort area.

(12) A resort retail all-beverages license ~~shall is~~ is not be subject to the quota limitations set forth in 16-4-201,

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

Section 33. Section 16-4-204, MCA, is amended to read:

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

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

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

(A) by more than 33%; or

(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, that
4 the public convenience and necessity would be served by such
5 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 between
16 quota areas under subsection (1)(a), the license may not be
17 mortgaged or pledged as security and may not be transferred
18 to another person except for a transfer by inheritance upon
19 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 beverages⁷. such The beverages to must be consumed
9 on the 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

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

(d) The licensee shall file with each application for an event to be catered a written statement of approval of the premises where the event is to be held, issued by the local law enforcement agency that has jurisdiction over the premises where the event is to be held.

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

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

(g) A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(3) (a) A retail all-beverages licensee is entitled to an endorsement to his retail all-beverages license to permit the licensee to purchase liquor from the state warehouse.

(b) To obtain a state warehouse purchasing endorsement, a licensee must submit a written application and an annual

fee of \$400 to the department."

Section 34. Section 16-4-205, MCA, is amended to read:

"16-4-205. Limit one license to person -- business in name of licensee -- exception. (1) No Except as provided in subsection (2), a person shall may not be issued more than one all-beverages license in any year, with the exception of a secured party issued an additional all-beverages license as the result of a default.

(2) (a) Such-a A secured party shall transfer ownership of any additional retail all-beverages license within 180 days of issuance.

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

(3) No--business Business may not be carried on under any license issued under this chapter except in the name of the licensee."

Section 35. Section 16-4-207, MCA, is amended to read:

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

license and that protests against the issuance of a license to the applicant may be mailed to a named administrator in the department of revenue within 10 days after the final notice is published. Notice of application for a new license shall be published once a week for 4 consecutive weeks. Notice of application for transfer of a license shall be published once a week for 2 consecutive weeks. Notice may be substantially in the following form:

NOTICE OF APPLICATION FOR RETAIL

ALL-BEVERAGES LICENSE

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

Dated

Signed

ADMINISTRATOR

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

(3) If the administrator receives no written protests, the department may issue or transfer the license without

holding a public hearing. If written protests against the issuance or transfer of the license are received, the department shall hold a public hearing at its office in Helena."

Section 36. Section 16-4-208, MCA, is amended to read:

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

(a) application is made;

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

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

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

(3) A retail public airport all-beverages license and all retail alcoholic beverage sales ~~thereunder shall be by~~

1 the licensee are subject to all statutes and rules governing
2 retail all-beverages licenses.

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

9 **Section 37.** Section 16-4-209, MCA, is amended to read:

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

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

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

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

24 (3) Upon application and approval by the department, a
25 license issued under subsection (1)(a) may be transferred to

1 another qualified applicant, but such the license may only
2 be transferred to a location within the quota area and the
3 exterior boundaries of the Montana Indian reservation for
4 which the license was originally issued.

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

8 **Section 38.** Section 16-4-501, MCA, is amended to read:

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

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

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

18 (c) each beer retailer, \$200;

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 the
2 rate of \$15 a day for each day beer and table wine are sold
3 at those events lasting 2 or more days but in no case be
4 less than \$30.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (9) The annual fee for a special beer and table wine
 25 license for a nonprofit arts organization under 16-4-303 is

1 \$250.

2 (10) The fee for an original package store license is:

3 (a) \$15,000, if the package store is in an incorporated
 4 city with 10,000 or more inhabitants or within a distance of
 5 5 miles thereof, measured in a straight line from the
 6 nearest entrance of the store to the nearest boundary of the
 7 city; or

8 (b) \$5,000 if the package store is in any location not
 9 covered by subsection (a).

10 (11) The annual renewal fee for all package store
 11 licenses is as follows:

12 (a) except as hereinafter provided, \$400 for each
 13 license outside of incorporated cities and incorporated
 14 towns or in incorporated cities and incorporated towns with
 15 a population of less than 2,000;

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

22 (c) except as hereinafter provided, \$650 for each
 23 license in incorporated cities with a population of more
 24 than 5,000 and less than 10,000 or within a distance of 5
 25 miles thereof, measured in a straight line from the nearest

1 entrance of the premises to be licensed to the nearest
2 boundary of the city;

3 (d) \$800 for each license in incorporated cities with a
4 population of 10,000 or more or within a distance of 5 miles
5 thereof, measured in a straight line from the nearest
6 entrance of the premises to be licensed to the nearest
7 boundary of the city;

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

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

18 **Section 39.** Section 16-6-107, MCA, is amended to read:

19 "16-6-107. Disposal of forfeited alcoholic beverages --
20 report. (1) In every case in which a court or hearing
21 examiner makes any order for the forfeiture of alcoholic
22 beverages under any of the provisions of this code and in
23 every case in which any claimant to an alcoholic beverage
24 under the provisions of 16-6-105 or 16-6-106 fails to
25 establish his claim and right thereto, the alcoholic

1 beverage in question and the packages in which the alcoholic
2 beverage is kept shall be delivered to the department. The
3 department shall determine the market value of each
4 forfeited alcoholic beverage which is found to be suitable
5 for sale in the state ~~liquor-stores~~ warehouse and shall pay
6 ~~the~~ that amount ~~so-determined~~ to the state treasurer after
7 deducting ~~therefrom~~ the expenses necessarily incurred by the
8 department for transporting the forfeited alcoholic beverage
9 to the state ~~liquor--warehouses~~ warehouse. The alcoholic
10 beverage suitable for sale shall be taken into stock by the
11 department and sold under the provisions of this code. All
12 alcoholic beverages found to be unsuitable for sale in the
13 state ~~liquor--stores~~ warehouse shall be destroyed by the
14 department.

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

19 **Section 40.** Section 16-6-301, MCA, is amended to read:

20 "16-6-301. Transfer, sale, and possession of alcoholic
21 beverages -- when unlawful. (1) Except as provided by this
22 code, ~~no a person shall, within the state, by--himself,--his~~
23 ~~clerk,--servant,--or--agent,--expose--or--keep--for--sale--or~~
24 ~~directly--or--indirectly--or--upon--any--pretense--or--upon--any~~
25 ~~device,~~ may not sell or offer to sell or, in consideration

1 of the purchase or transfer of any property or for any other
2 consideration or at the time of the transfer of any
3 property, give to any other person any alcoholic beverage.

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

22 (3) Nothing contained in this section shall apply to
23 the possession by a sheriff or his bailiff of alcoholic
24 beverages seized under execution or other judicial or
25 extrajudicial process or to sales under executions or other

1 judicial or extrajudicial process to the department or a
2 licensee.

3 (4) Except as provided in this code, ~~no a~~ person ~~shall~~
4 may not, within the state, by himself, his clerk, servant,
5 or agent:

6 (a) attempt to purchase any alcoholic beverage;

7 (b) directly or indirectly or upon any pretense or
8 device, purchase any alcoholic beverage; or

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

13 **Section 41.** Section 16-6-303, MCA, is amended to read:

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

1 the licensed premises by the licensee or by his agents,
2 servants, or employees, the department shall immediately
3 revoke the license."

4 NEW SECTION. **Section 42.** Sale of existing state retail
5 liquor stores. (1) The department of revenue shall negotiate
6 contracts to sell, as soon as possible after [the effective
7 date of this act], all existing state retail liquor stores,
8 including agency stores, and the contracts of sale must have
9 a July 1, 1990, closing date. The sales must be made through
10 a sealed bid procedure to qualified bidders. A qualified
11 bidder is a bidder who is eligible to receive a package
12 store license.

13 (2) The department shall establish a minimum sale price
14 for each state-operated store that may not be less than 80%
15 of the value of the store's inventory (at the retail price,
16 including taxes, determined by the department) plus the cost
17 of a package store license as provided in 16-4-501. The
18 highest qualified bidder is entitled to assume title to the
19 store inventory, store furniture and fixtures, lease, if
20 any, and related merchandise and equipment. The successful
21 bidder must be granted an agency agreement to operate the
22 store as a state liquor store between the time title is
23 assumed and July 1, 1990. The department shall develop a
24 list of items that will be assumed by the highest qualified
25 bidder.

1 (3) The highest qualified bidder must be issued a
2 package store license on July 1, 1990, and may not be
3 charged the initial license fee contained in 16-4-501.

4 (4) A state store may be operated by the department
5 until it is sold and the sale is closed. If it is not sold
6 by July 1, 1990, the department shall return the inventory
7 remaining at the store to a state liquor facility and sell
8 the other items referred to in subsection (2).

9 NEW SECTION. **Section 43.** Repealer. Sections 2-18-314,
10 16-2-104, 16-2-105, 16-2-201, 16-2-301 through 16-2-303, and
11 16-3-307, MCA, are repealed.

12 NEW SECTION. **Section 44.** Extension of authority. Any
13 existing authority to make rules on the subject of the
14 provisions of [this act] is extended to the provisions of
15 [this act].

16 NEW SECTION. **Section 45.** Codification instruction.
17 [Section 1] is intended to be codified as an integral part
18 of Title 16, and the provisions of Title 16 apply to
19 [section 1].

20 NEW SECTION. **Section 46.** Effective date. (1) [Sections
21 1, 42, and 44 through 46] are effective on passage and
22 approval.

23 (2) The remainder of [this act] is effective July 1,
24 1990.

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for HB627, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act withdrawing the state from the retail liquor and table wine sale business; providing for the sale of state liquor stores; creating a package store license; and providing effective dates.

ASSUMPTIONS:

1. The volume of liquor sold will be no different under the proposal than under current law.
2. The cost of goods sold under the proposal does not include table wine or freight to stores.
3. Under the proposal, state sales of liquor will generate no profit; wholesale prices will be adjusted as necessary to cover costs of operation only.
4. Under the proposal, the state excise tax on liquor will be \$1.80 per liter.
5. Under the proposal, the state license tax on liquor will be \$0.75 per liter.
6. Total sales of liquor will be 4,187,000 liters in FY90, and 3,922,000 in FY91.
7. Under the proposal, the state will no longer sell table wine; however, the state will continue to collect tax at the rate of \$0.27 per liter sold by distributors.
8. Liquor excise taxes are distributed 100% to the state general fund.
9. Liquor license taxes are distributed 34.5% to local governments, and 65.5% to the Department of Institutions.
10. Liquor profits are allocated 100% to the state general fund.
11. The \$0.27 per liter tax on table wine is distributed \$0.16 to the state general fund, \$0.0834 to the Department of Institutions, and \$0.0266 to local governments.
12. In FY91, 100 package store licenses will be purchased: 10 licenses will be purchased at \$15,000; 90 licenses will be purchased at \$5,000.
13. In FY91 300 retail all-beverage licensees will obtain purchasing endorsements at \$400 per endorsement.
14. The sale of existing state liquor stores will net the value of inventory at the end of FY88, plus an additional \$200,000 in other assets. Half of this inventory will sell on bid at 80% of value, and half will sell at the new wholesale price for retail licensee inventory increases. All income from these sales, estimated at \$4,401,000, will be received in FY91. There is no provision in the bill for the deposit of this income. The fiscal note assumes that it will be deposited in the proprietary fund.
15. Administrative expense would be reduced by all expenses related to operating state retail liquor stores; administrative expenses would increase at the state liquor warehouse and includes additional personnel needed to manage phone-in orders, and billing/crediting for direct delivery.

 2/20/89
RAY/SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

3/21/89
BRUCE T. SIMON, PRIMARY SPONSOR DATE

Fiscal Note for HB627, as introduced

HB 627

FISCAL IMPACT:Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Liq. Profit Transfer	\$ 3,153,000	\$ 3,153,000	\$ 0	\$ 2,680,000	\$ 0	\$ (2,680,000)
Liquor Excise Tax	4,691,000	4,691,000	0	4,402,000	7,060,000	2,658,000
Liquor License Tax	2,932,000	2,932,000	0	2,751,000	2,942,000	191,000
Wine Tax	1,464,000	1,464,000	0	1,409,000	1,409,000	0
Package Store Lic.	0	0	0	0	600,000	600,000
Lic. Endorsements	0	0	0	0	120,000	120,000
Liquor Sales (net of taxes and discounts)	30,165,000	30,165,000	0	28,299,000	17,164,000	(11,135,000)
Sale of Stores/Inv.	0	0	0	0	4,401,000	4,401,000
Other Income	40,000	40,000	0	42,000	42,000	0
Total	\$42,445,000	\$ 42,445,000	\$ 0	\$ 39,583,000	\$ 33,738,000	\$ (5,845,000)

Expenditure Impact:

Personal Services	\$ 2,706,000	\$ 2,706,000	\$ 0	\$ 2,672,000	\$ 1,212,000	\$ (1,460,000)
Operating Expense	3,060,000	3,060,000	0	3,025,000	1,119,000	(1,906,000)
Costs of Goods Sold	21,326,000	21,326,000	0	20,007,000	15,380,000	(4,627,000)
Profit Transfers Out	3,153,000	3,153,000	0	2,680,000	0	(2,680,000)
Total	\$30,245,000	\$ 30,245,000	\$ 0	\$28,384,000	\$ 17,711,000	\$ (10,673,000)

NET EFFECT:	\$12,200,000	\$ 12,200,000	\$ 0	\$11,199,000	\$ 16,027,000	\$ 4,828,000
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Fund Information:

General Fund	\$ 8,712,000	\$ 8,712,000	\$ 0	\$ 7,917,000	\$ 8,615,000	\$ 698,000
Special Rev. Funds						
- Institutions	2,372,000	2,372,000	0	2,237,000	2,362,000	125,000
- Local Govt.	1,156,000	1,156,000	0	1,088,000	1,154,000	66,000
Proprietary Fund	30,205,000	30,205,000	0	28,341,000	21,607,000	(6,734,000)
Total	\$42,445,000	\$ 42,445,000	\$ 0	\$39,583,000	\$ 33,738,000	\$ (5,845,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

In FY91, local governments would experience an increase in revenue of approximately \$66,000.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION:

Section 25 of the proposed draft refers in two locations to where the department may receive money from the sale of liquor and table wine, and may purchase liquor and table wine for sale from the state warehouse. The references to table wine need to be deleted from the language.

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