

HOUSE BILL 461

Introduced by Driscoll

2/04	Introduced
2/04	Referred to Business & Economic Development
2/04	First Reading
2/04	Fiscal Note Requested
2/10	Fiscal Note Received
2/10	Fiscal Note Printed
2/18	Hearing
2/18	Tabled in Committee

1 House BILL NO. 461  
2 INTRODUCED BY \_\_\_\_\_  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE POSTING  
5 OF BEER AND TABLE WINE PRICES; PROVIDING FOR A VIOLATION;  
6 AND AMENDING SECTIONS 16-3-242 AND 16-3-406, MCA."  
7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
9 NEW SECTION. Section 1. Posting of beer prices. (1)  
10 Each licensed wholesaler engaged in selling beer for resale  
11 within this state shall file with the department a written  
12 schedule of prices to be charged by the wholesaler for beer  
13 sold for resale within this state. The schedule of prices  
14 must be uniform for purchases by all retailers in the same  
15 trade area, as provided in 16-3-222, served by the  
16 wholesaler within this state and must set forth:  
17 (a) all brands and types of products offered for sale;  
18 (b) the delivered sale price of each brand and type  
19 offered for sale to retailers in the same trade area served  
20 by the wholesaler within this state;  
21 (c) any allowance granted for returned containers; and  
22 (d) any charge made for selling a split case.  
23 (2) The schedule of prices may be changed by filing  
24 with the department a new schedule of prices. A new schedule  
25 must be filed not less than 10 days prior to the last day of

1 the calendar month and is effective on the first day of the  
2 succeeding calendar month.

3 (3) The schedule of prices may not be withdrawn within  
4 10 days of the last day of the calendar month. An amendment  
5 must show the changes regarding the particular brand and  
6 product affected. The amendment must be in the form of a  
7 statement to the department that details the reasons for the  
8 amendment. The amendment submitted to the department is  
9 prima facie evidence of its correctness, and failure of the  
10 department to act upon or deny the amendment within 10 days  
11 constitutes its adoption.

12 (4) Upon becoming effective, the schedule must remain  
13 in effect as follows:

14 (a) for an increase in prices, for a minimum period of  
15 30 days; or

16 (b) for a reduction in prices, for a minimum period of  
17 6 months.

18 (5) All price schedules are subject to public  
19 inspection and may not be considered confidential. Upon  
20 becoming effective, a schedule of prices must be strictly  
21 adhered to, and a departure or variation from the schedule  
22 constitutes a violation of 16-3-242.

23 **Section 2.** Section 16-3-242, MCA, is amended to read:

24 "16-3-242. Financial interest in retailers prohibited.  
25 No A brewer, beer importer, or wholesaler shall may not

advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax ~~which that~~ may be required to be paid for any retailer, ~~and no A~~ brewer, beer importer, or wholesaler ~~shall may not~~ be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer importer, or wholesaler ~~shall be deemed~~ is considered to have such a financial interest within the meaning of this section if:

(1) such the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage against the retailer or his the retailer's premises;

(2) such the brewer, beer importer, or wholesaler is under any contract with a retailer concerning future purchases ~~and/or or~~ sale of merchandise by one from or to the other;

(3) any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler;

(4) a wholesaler gives a retailer or an employee of a retailer a discount, premium, or rebate in connection with the sale of beer, violates (section 1), or both."

**NEW SECTION. Section 3. Posting of wine prices.** (1) Each licensed table wine distributor and supplier engaged in selling wine for resale within this state shall file with the department a written schedule of prices to be charged by

the table wine distributor or supplier for wine sold for resale within this state. The schedule of prices must be uniform for purchases by all retailers in the same trade area served by the distributor or supplier within this state and must set forth:

(a) all brands and types of products offered for sale;

(b) the delivered sale price of each brand and type offered for sale to all retailers in the same trade area served by the distributor or supplier within this state;

(c) any allowance granted for returned containers; and

(d) any charge made for selling a split case.

(2) The schedule of prices may be changed by filing with the department a new schedule of prices. A new schedule must be filed not less than 10 days prior to the last day of the calendar month and is effective on the first day of the succeeding calendar month.

(3) The schedule of prices may not be withdrawn within 10 days of the last day of the calendar month. An amendment must show the changes regarding the particular brand and product affected. The amendment must be in the form of a statement to the department that details the reasons for the amendment. The amendment submitted to the department is prima facie evidence of its correctness, and failure of the department to act upon or deny the amendment within 10 days constitutes its adoption.

(4) Upon becoming effective, the schedule must remain in effect as follows:

(a) for an increase in prices, for a minimum period of 30 days; or

(b) for a reduction in prices, for a minimum period of 6 months.

(5) All price schedules are subject to public inspection and may not be considered confidential. Upon becoming effective, a schedule of prices must be strictly adhered to, and a departure or variation from the schedule constitutes a violation of 16-3-406.

**Section 4.** Section 16-3-406, MCA, is amended to read:

**"16-3-406. Financial interest in retailers prohibited.**

(1) No A winery or table wine distributor ~~shall~~ may not advance or loan money to, or furnish money for, or pay for or on behalf of any retailer, any license or tax which that may be required to be paid by any retailer, and-no A winery or table wine distributor ~~shall~~ may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer.

(2) A winery or table wine distributor ~~shall-be-deemed~~ is considered to have such a financial interest if:

(a) such the winery or table wine distributor owns or holds any interest in or a lien or mortgage against the retailer or ~~his~~ the retailer's premises; or

(b) such the winery or table wine distributor is under any contract with a retailer concerning future purchases ~~and/or or~~ sale of merchandise by one from or to the other; or

(c) such the table wine distributor extends more than 7 days' credit to a retail licensee or furnishes to any retail licensee any furniture, fixtures, or equipment to be used in the dispensation or sale of table wine; or

(d) any retailer holds an interest as a stockholder, or otherwise, in the business of the table wine distributor; or

(e) a table wine distributor or supplier gives a retailer or an employee of a retailer a discount, premium, or rebate in connection with the sale of table wine, violates [section 3], or both."

**NEW SECTION. Section 5.** Codification instruction. [Sections 1 and 3] are intended to be codified as an integral part of Title 16, chapter 3, and the provisions of Title 16, chapter 3, apply to [sections 1 and 3].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0461, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the posting of beer and table wine prices, and providing for a violation.

FISCAL IMPACT:

This bill results in a minimal impact on Department of Revenue expenditures. It results in no impact on Department of Revenue revenues.

David Lewis 2-9-93  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Jerry L. Driscoll 2-10-93  
JERRY L. DRISCOLL, PRIMARY SPONSOR DATE

Fiscal Note for HB0461, as introduced

HB461