

House BILL NO. 549

1
2 INTRODUCED BY *Shea*

3 *Jensen*
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO RETAIL BEER AND TABLE
5 WINE RETAIL LICENSES FOR OFF-PREMISES CONSUMPTION; PROVIDING FOR THE ISSUANCE OF
6 CONDITIONAL LICENSES TO ACCOMMODATE NEW OR REMODELED FACILITIES; AMENDING SECTIONS
7 16-4-105 AND 16-4-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
8

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

11 NEW SECTION. **Section 1. Beer and wine licenses for off-premises consumption.** (1) A retail
12 license to sell beer or table wine, or both, in the original packages for off-premises consumption may be
13 issued only to a person, firm, or corporation that is approved by the department as a fit and proper person,
14 firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are
15 operated as a bona fide grocery store or a drugstore licensed as a pharmacy. The number of licenses that
16 the department may issue is not limited by the provisions of 16-4-105 but must be determined by the
17 department in the exercise of its sound discretion, and the department may in the exercise of its sound
18 discretion grant or deny an application for any such license or suspend or revoke any license for cause.

19 (2) Upon receipt of a completed application for a license under this section, accompanied by the
20 necessary license fee as provided in 16-4-501, the department shall request that the department of justice
21 make a thorough investigation of all matters relating to the application. Based on the results of the
22 investigation, the department shall determine whether:

23 (a) the applicant is qualified to receive a license;
24 (b) the applicant's premises are suitable for the carrying on of the business; and
25 (c) the requirements of this code and the rules promulgated by the department are met and
26 complied with.

27 (3) License applications submitted under this section are not subject to the publication provisions
28 of 16-4-207.

29 (4) If the premises proposed for licensing under this section are a new or remodeled structure, the
30 department may issue a conditional license prior to completion of the premises upon reasonable evidence

1 that the premises will be suitable for the carrying on of business as a bona fide grocery store or a drugstore
2 licensed as a pharmacy.

3

4 **Section 2.** Section 16-4-105, MCA, is amended to read:

5 **"16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption.**

6 (1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in
7 accordance with the provisions of this code and the rules of the department, may be issued to any person,
8 firm, or corporation who is approved by the department as a fit and proper person, firm, or corporation to
9 sell beer, except that:

10 (a) the number of retail beer licenses that the department may issue for premises situated within
11 incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of
12 ~~such the~~ cities and towns ~~shall~~ must be determined on the basis of population prescribed in 16-4-502 as
13 follows:

14 (i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the
15 corporate limits of ~~such the~~ towns, not more than one retail beer license, which may not be used in
16 conjunction with a retail all-beverages license;

17 (ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000
18 inhabitants and within a distance of 5 miles from the corporate limits of ~~such the~~ cities or towns, one retail
19 beer license for each 500 inhabitants, which may not be used in conjunction with retail all-beverages
20 licenses;

21 (iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the
22 corporate limits of ~~such the~~ cities, four retail beer licenses for the first 2,000 inhabitants, two additional
23 retail beer licenses for the next 2,000 inhabitants or major fraction ~~thereof~~ of 2,000 inhabitants, and one
24 additional retail beer license for each additional 2,000 inhabitants, which may not be used in conjunction
25 with retail all-beverages licenses;

26 (b) the number of the inhabitants in ~~such~~ cities and towns, exclusive of the number of inhabitants
27 residing within a distance of 5 miles from the corporate limits ~~thereof~~ of the cities or towns, ~~shall govern~~
28 governs the number of retail beer licenses that may be issued for use within ~~such the~~ cities and towns and
29 within a distance of 5 miles from the corporate limits ~~thereof~~. If two or more incorporated municipalities
30 are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may

1 be issued for use in both ~~of such~~ municipalities and within a distance of 5 miles from their respective
 2 corporate limits ~~shall~~ must be determined on the basis of the combined populations of both ~~of such~~
 3 municipalities and may not exceed the ~~foregoing~~ limitations in this section. The distance of 5 miles from
 4 the corporate limits of any incorporated city or incorporated town ~~shall~~ must be measured in a straight line
 5 from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such
 6 city or town.

7 (c) retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110,
 8 which are in excess of the ~~foregoing~~ limitations in this section ~~shall be~~ are renewable, but ~~no~~ new licenses
 9 may not be issued in violation of ~~such~~ the limitations;

10 (d) ~~such~~ the limitations do not prevent the issuance of a nontransferable and nonassignable retail
 11 beer license to an enlisted ~~man's~~ person's, noncommissioned officers', or officers' club located on a state
 12 or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization
 13 or a lodge of a recognized national fraternal organization if ~~such~~ the veterans' or fraternal organization has
 14 been in existence for a period of 5 years or more prior to January 1, 1949;

15 (e) the number of retail beer licenses that the department may issue for use at premises situated
 16 outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles
 17 from the corporate limits ~~thereof~~ or for use at premises situated within any unincorporated town ~~shall~~ must
 18 be as determined by the department in the exercise of its sound discretion, except that no retail beer license
 19 may be issued for any premises so situated unless the department determines that the issuance of ~~such~~
 20 the license is required by public convenience and necessity.

21 (2) A person holding a license to sell beer for consumption on the premises at retail may apply to
 22 the department for an amendment to the license permitting the holder to sell wine as well as beer. The
 23 division may issue ~~such~~ an amendment if it finds, on a satisfactory showing by the applicant, that the sale
 24 of wine for consumption on the premises would be supplementary to a restaurant or prepared-food
 25 business. A person holding a beer-and-wine license may sell wine for consumption on or off the premises.
 26 Nonretention of the beer license, for whatever reason, ~~shall mean~~ means automatic loss of the wine
 27 amendment license.

28 ~~(3) A retail license to sell beer or table wine, or both, in the original packages for off premises~~
 29 ~~consumption only may be issued to any person, firm, or corporation who is approved by the department~~
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4 ~~the department may in the exercise of its sound discretion grant or deny any application for any such~~
5 ~~license or suspend or revoke any such license for cause."~~

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7 **Section 3.** Section 16-4-402, MCA, is amended to read:

8 **"16-4-402. Application -- investigation.** (1) Prior to the issuance of a license under this chapter,
9 the applicant shall file with the department an application in writing, signed by the applicant and containing
10 information and statements relative to the applicant and the premises where the alcoholic beverage is to
11 be sold as required by the department. The application must be verified by the affidavit of the person
12 making it before a person authorized to administer oaths.

13 (2) (a) Upon receipt of a completed application for a license under this code, accompanied by the
14 necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department shall request that the
15 department of justice make a thorough investigation of all matters relating to the application. Based on the
16 results of the investigation, the department shall determine whether:

17 (i) the applicant is qualified to receive a license;

18 (ii) the applicant's premises are suitable for the carrying on of the business; and

19 (iii) the requirements of this code and the rules promulgated by the department are met and
20 complied with.

21 (b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or
22 16-4-204(2), a retail beer and wine license for off-premises consumption as provided in [section 1], or a
23 special permit provided in 16-4-301.

24 (3) Upon proof that an applicant made a false statement in any part of the original application, in
25 any part of an annual renewal application, or in any hearing conducted pursuant to an application, the
26 application for the license may be denied, and if issued, the license may be revoked.

27 (4) If, within 30 days of receiving the completed application, the department finds no basis for
28 denying the application, the department shall proceed to publish the notice of the application as required
29 by 16-4-207."

30

1 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an
2 integral part of Title 16, chapter 4, and the provisions of Title 16, chapter 4, apply to [section 1].

3

4 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

5

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB549, introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the laws relating to retail beer and table wine retail licenses for off-premises consumption; providing for the issuance of conditional licenses to accommodate new or remodeled facilities; and providing an immediate effective date.

ASSUMPTIONS:

1. The bill has no impact on Department of Revenue expenditures or revenues.

FISCAL IMPACT:

None

Dave Lewis 2-17-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Debbie Shea
DEBBIE SHEA, PRIMARY SPONSOR DATE

Fiscal Note for HB0549, as introduced

HB 549

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

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2 INTRODUCED BY SHEA, JENKINS, DEVLIN, HARRINGTON

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.

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24 (3) Upon proof that an applicant made a false statement in any part of the original application, in
25 any part of an annual renewal application, or in any hearing conducted pursuant to an application, the
26 application for the license may be denied, and if issued, the license may be revoked.

27 (4) If, within 30 days of receiving the completed application, the department finds no basis for
28 denying the application, the department shall proceed to publish the notice of the application as required
29 by 16-4-207."

30

1 **NEW SECTION.** **Section 4. Codification instruction.** [Section 1] is intended to be codified as an
2 integral part of Title 16, chapter 4, and the provisions of Title 16, chapter 4, apply to [section 1].

3

4 **NEW SECTION.** **Section 5. Effective date.** [This act] is effective on passage and approval.

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