

1 HOUSE BILL NO. 144  
2 INTRODUCED BY P. GREEN  
3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOL LICENSE LAWS RELATING TO THE  
6 COMPETITIVE BIDDING PROCESS; ALLOWING THE DEPARTMENT OF REVENUE TO PUBLISH THE  
7 AVAILABILITY OF MORE THAN ONE LICENSE UNTIL THE QUOTA HAS BEEN REACHED; PROVIDING  
8 THAT THE DEPARTMENT IS TO PROVIDE SEPARATE COMPETITIVE BIDDING PROCESSES IN THE  
9 SAME QUOTA AREA WHEN MORE THAN ONE NEW ALL-BEVERAGES LICENSE BECOMES AVAILABLE;  
10 APPLYING TO BEER AND WINE, ALL-BEVERAGES, AND RESTAURANT BEER AND WINE LICENSES;  
11 REVISING CERTAIN FEES; ELIMINATING THE REQUIREMENT FOR A SUCCESSFUL BIDDER TO SUBMIT  
12 AN IRREVOCABLE LETTER OF CREDIT IN THE COMPETITIVE BIDDING PROCESS; AMENDING  
13 SECTIONS 16-4-105, 16-4-201, 16-4-412, 16-4-420, AND 16-4-430, MCA; AND PROVIDING AN IMMEDIATE  
14 EFFECTIVE DATE."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
17

18 **Section 1.** Section 16-4-105, MCA, is amended to read:

19 **"16-4-105. Limit on retail beer licenses -- wine license amendments -- limitation on use of**  
20 **license -- exceptions -- competitive bidding -- rulemaking.** (1) Except as provided in 16-4-109, 16-4-110,  
21 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in  
22 accordance with the provisions of this code and the rules of the department, may be issued to any person or  
23 business entity that is approved by the department, subject to the following exceptions:

24 (a) The number of retail beer licenses that the department may issue for premises situated within  
25 incorporated cities and incorporated towns and within 5 miles of the corporate limits of the cities and towns  
26 must be determined on the basis of population prescribed in 16-4-502 as follows:

27 (i) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of  
28 the towns, not more than one retail beer license;

1           (ii)       in incorporated cities or incorporated towns of more than 500 inhabitants and not more than  
2 2,000 inhabitants and within 5 miles of the corporate limits of the cities or towns, one retail beer license for  
3 every 500 inhabitants;

4           (iii)       in incorporated cities of more than 2,000 inhabitants and within 5 miles of the corporate limits of  
5 the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next  
6 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for each  
7 additional 2,000 inhabitants.

8           (b)       The number of inhabitants in each incorporated city or incorporated town, exclusive of the  
9 number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of  
10 retail beer licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of  
11 the city or town. The distance of 5 miles from the corporate limits of an incorporated city or incorporated town  
12 must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the  
13 nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section  
14 may not be located farther than:

15           (i)       the county boundary within which the incorporated city or incorporated town is located; or

16           (ii)       the line that separates the incorporated city's or incorporated town's boundary from another  
17 incorporated city or incorporated town as specified in this section.

18           (c)       (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile  
19 boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a  
20 straight line equidistant between each city or town.

21           (ii)       If there are more than two overlapping quota areas, the quota area for each city or town  
22 terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses  
23 existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a  
24 result of the straight line equidistant between each city or town, except for the following:

25           (A)       In the Helena and East Helena previously combined quota area, the straight line will be drawn  
26 connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area  
27 boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a  
28 Helena license or with a physical address of East Helena will become an East Helena license, regardless of

1 where it falls in the new quota areas.

2 (B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn  
3 along Mill Creek road to the quota area boundaries.

4 (C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west  
5 on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area  
6 boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson  
7 license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017,  
8 within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

9 (d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110  
10 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in  
11 violation of the limitations.

12 (e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer  
13 license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military  
14 reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a  
15 recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a  
16 period of 5 years or more prior to January 1, 1949.

17 (f) The number of retail beer licenses that the department may issue for use at premises situated  
18 outside of any incorporated city or incorporated town and outside of the area within 5 miles of the corporate  
19 limits or for use at premises situated within any unincorporated area must be determined by the department in  
20 its discretion, except that a retail beer license may not be issued for any premises so situated unless the  
21 department determines that the issuance of the license is required by public convenience and necessity  
22 pursuant to 16-4-203. Subsection (8) does not apply to licenses issued under this subsection (1)(f). The owner  
23 of the license whose premises are situated outside of an incorporated city or incorporated town may offer  
24 gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter  
25 5, part 3, 5, or 6.

26 (2) ~~(a)~~ For a period of 12 years after November 24, 2017, existing licenses or licenses that  
27 resulted from applications in process as of November 24, 2017, in either of two quota areas that were  
28 established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part

1 of the combined quota area prior to November 24, 2017.

2 ~~(b) If any new retail beer licenses are allowed by separating a combined quota area that existed as of~~  
3 ~~November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more~~  
4 ~~than one new beer license a year until the quota has been reached.~~

5 ~~(c) If any new retail beer licenses are allowed by license transfers as provided in subsection (2)(a),~~  
6 ~~the department may publish the availability of more than one new license a year until the quota has been~~  
7 ~~reached.~~

8 (3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated  
9 city or town because of annexation after April 15, 2005, may not be transferred to another location within the  
10 city quota area any sooner than 5 years from the date of the annexation.

11 (4) When the department determines that a quota area is eligible for a new retail beer license  
12 under subsection (1) or (2)(b), the department shall use a competitive bidding process as provided in 16-4-430  
13 to determine the party afforded the opportunity to apply for the new license.

14 (5) ~~Except as provided in subsection (2)(b), when When more than one new beer license becomes~~  
15 ~~available at the same time in the same quota area is subject to the competitive bidding process in the same~~  
16 ~~quota area, the department shall conduct a separate competitive bidding process at separate times for each~~  
17 ~~available license.~~

18 (6) (a) A person holding a license to sell beer for consumption on the premises at retail may apply  
19 to the department for an amendment to the license permitting the holder to sell wine as well as beer. The  
20 department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine  
21 for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for  
22 beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for  
23 consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic  
24 loss of the wine amendment license.

25 (b) A person licensed under this subsection (6) may apply to the department and pay a fee for an  
26 endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original  
27 packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The  
28 purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.

1 (7) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in  
2 original packaging, prepared servings, or growlers.

3 (8) Except as provided in subsection (1)(f), a license issued pursuant to this section after October  
4 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is  
5 conducted.

6 (9) An applicant for a license issued through a competitive bidding process in 16-4-430 shall pay a  
7 ~~\$25,000~~ new license fee equal to the annual fee as provided in 16-4-501 and in subsequent years pay the  
8 annual fee for the license as provided in 16-4-501.

9 (10) The department may adopt rules to implement this section."  
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11 **Section 2.** Section 16-4-201, MCA, is amended to read:

12 **"16-4-201. All-beverages license quota.** (1) Except as otherwise provided by law, a license to sell  
13 liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code  
14 and the rules of the department, may be issued to any person who is approved by the department as a fit and  
15 proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department  
16 may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the  
17 corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502  
18 as follows:

19 (a) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of  
20 the towns, not more than two retail licenses;

21 (b) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than  
22 3,000 inhabitants and within 5 miles of the corporate limits of the cities and towns, three retail licenses for the  
23 first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

24 (c) in incorporated cities of more than 3,000 inhabitants and within 5 miles of the corporate limits of  
25 the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500  
26 inhabitants.

27 (2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the  
28 number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of