

HOUSE BILL NO. 145

INTRODUCED BY P. GREEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOLIC BEVERAGES LICENSED PREMISES MORATORIUM LAWS; REDUCING THE TIME PERIOD FOR THE MORATORIUM; AMENDING SECTION 16-4-413, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 16-4-413, MCA, is amended to read:

"16-4-413. Denial of application -- ~~five-year~~ two-year moratorium. (1) If an application for the issuance of a new license or for the transfer of an existing license has been denied for any reason provided in 16-4-405, the department may not consider an application or issue any retail license, special permit, or special license for those premises for ~~5~~2 years unless the department, using the criteria described in subsection (3), determines that the proposed use is substantially different from the use that was rejected. The prohibition period commences on the date of the final agency decision or, if judicially reviewed, on the date the judicial decision is final.

(2) If an application is withdrawn after a hearing has been held in which testimony is received regarding any reason for denial provided in 16-4-405, the effect of the withdrawal is the same as if a final decision had been made denying the application for any reason provided in 16-4-405. The ~~5-year~~ 2-year prohibition against considering an application or issuing a license for that vicinity commences on the date of the withdrawal.

(3) The department shall determine whether a proposed use is substantially different by considering:

- (a) the capacity of the proposed use;
- (b) the nature of the establishment;
- (c) the presence and character of any entertainment; and

1 (d) the characteristics of the neighborhood."

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3 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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