

HOUSE BILL NO. 412

INTRODUCED BY B. GRUBBS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUNICIPALITIES TO ESTABLISH QUOTAS WITHIN THEIR CORPORATE LIMITS FOR RETAIL BEER LICENSES OR ALL-BEVERAGES LICENSES; PROVIDING THAT LICENSES ISSUED PURSUANT TO AN ALTERNATIVE QUOTA DO NOT AUTHORIZE GAMING; PROVIDING FOR CONTINUED VALIDITY OF ISSUED LICENSES; PROVIDING FOR COORDINATION AMONG TYPES OF QUOTAS; AMENDING SECTION 16-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Alternative to limit on retail beer licenses. (1) (a) An incorporated city or town may adopt by ordinance or resolution a quota for retail beer licenses within its corporate boundaries that is an alternative to the quota established under 16-4-105.

(b) A quota adopted under subsection (1)(a) takes precedence over the quota established in 16-4-105 for the incorporated city or town adopting an alternative quota but does not affect a license issued under the quota established in 16-4-105, except as provided in subsection (6).

(c) All references and requirements in this chapter related to retail beer licenses for on-premises consumption apply equally to licenses issued under the alternative quota if adopted under this section.

(2) (a) Except as provided in subsection (2)(b), the department shall continue to issue licenses available under the quota established under 16-4-105 until that quota is filled. However, an applicant may request a license under the alternative quota adopted under subsection (1)(a).

(b) The department may not issue a license, whether new or transferred, for within the boundaries of an incorporated city or town that has established an alternative quota under subsection (1)(a) if the alternative quota is lower than the quota established under 16-4-105.

(3) The incorporated city or town shall send to the department by mail or electronically a copy of an ordinance or resolution adopted under subsection (1)(a) and any subsequent amendment to the ordinance or resolution.

(4) An adopted or revised alternative quota under subsection (1)(a) goes into effect 6 months after the

department receives the notice of adoption or amended resolution or ordinance. The department shall notify the incorporated city or town of the effective date.

(5) (a) An applicant for a license under the alternative quota adopted pursuant to subsection (1)(a) is subject to the same application procedures as provided for quotas under 16-4-105.

(b) The department shall issue licenses in an alternative quota area adopted pursuant to subsection (1)(a) under the same conditions as for licenses issued in quota areas under 16-4-105, except that a license issued in a quota area established pursuant to subsection (1)(a) may not:

(i) be transferred outside the alternative quota area adopted under subsection (1)(a); or

(ii) offer gaming under Title 23, chapter 5. The license issued in an alternative quota area subject to subsection (1)(a) must state in a conspicuous manner that the license may not be used on premises where gaming is conducted.

(6) (a) After an incorporated city or town adopts an alternative quota under subsection (1)(a), a license held under the quota set by 16-4-105 remains in effect, may offer gaming if allowed under the original license terms, and may be transferred outside of the alternative quota area established pursuant to subsection (1)(a) or within the alternative quota area established pursuant to subsection (1)(a) if the alternative quota established pursuant to subsection (1)(a) is the same or greater than the quota established under 16-4-105.

(b) A licensee holding a license under a quota area established under 16-4-105 may not:

(i) apply for a license under the alternative quota for a period of 1 year from the date the licensee's license under a quota established under 16-4-105 or 16-4-201 is transferred to a new purchaser. This subsection (6)(b)(i) applies within the boundaries of the incorporated city or town and within areas annexed into the incorporated city or town subsequent to the adoption of an alternative quota under subsection (1)(a).

(ii) transfer a license issued under a quota established under 16-4-105 into the boundaries of the incorporated city or town if issuance of the license would exceed the alternative quota under subsection (1)(a).

(7) If an incorporated city or town repeals an ordinance or resolution that established an alternative quota under subsection (1)(a), the quota established under 16-4-105 for licenses applies. A license that was in excess of the quota then in effect under 16-4-105 remains valid and is transferable only within the boundaries of the incorporated city or town. New licenses may not be issued in violation of limits set in 16-4-105.

(8) A separate ordinance or resolution must be used if an incorporated city or town seeks to adopt a quota under [section 2(1)(a)] and this section.

1 **NEW SECTION. Section 2. All-beverages license alternative quota.** (1) (a) An incorporated city or

2 town may adopt by ordinance or resolution a quota for retail all-beverages licenses within its corporate boundaries
3 that is an alternative to the quota established under 16-4-201.

4 (b) A quota adopted under subsection (1)(a) takes precedence over the quota established in 16-4-201
5 for the incorporated city or town adopting an alternative quota but does not affect a license issued under the quota
6 established in 16-4-201, except as provided in subsection (6).

7 (c) All references and requirements in this chapter related to all-beverages licenses apply equally to
8 licenses issued under the alternative quota if adopted under this section.

9 (2) (a) Except as provided in subsection (2)(b), the department shall continue to issue licenses available
10 under the quota established under 16-4-201 until that quota is filled. However, an applicant may request a license
11 under the alternative quota adopted by an incorporated city or town under subsection (1)(a).

12 (b) The department may not issue a license, whether new or transferred, for within the boundaries of an
13 incorporated city or town that has established an alternative quota under subsection (1)(a) if the alternative quota
14 is lower than the quota established under 16-4-201.

15 (3) The incorporated city or town shall send to the department by mail or electronically a copy of an
16 ordinance or resolution adopted under subsection (1)(a) and any subsequent amendment to the ordinance or
17 resolution.

18 (4) An adopted or revised alternative quota under subsection (1)(a) goes into effect 6 months after the
19 department receives the notice of adoption or amended resolution or ordinance. The department shall notify the
20 incorporated city or town of the effective date.

21 (5) (a) An applicant for a license under the alternative quota adopted pursuant to subsection (1)(a) is
22 subject to the same application procedures as provided for quotas under 16-4-201.

23 (b) The department shall issue licenses in an alternative quota area adopted pursuant to subsection
24 (1)(a) under the same conditions as for licenses issued in quota areas under 16-4-201, except that a license
25 issued in a quota area established pursuant to subsection (1)(a) may not:

26 (i) be transferred outside the alternative quota area adopted under subsection (1)(a); or

27 (ii) offer gaming under Title 23, chapter 5. The license issued in an alternative quota area subject to
28 subsection (1)(a) must state in a conspicuous manner that the license may not be used on premises where
29 gaming is conducted.

30 (6) (a) After an incorporated city or town adopts an alternative quota under subsection (1)(a), a license

held under the quota set by 16-4-201 remains in effect, may offer gaming if allowed under the original license terms, and may be transferred outside of the alternative quota area established pursuant to subsection (1)(a) or within the alternative quota area established pursuant to subsection (1)(a) if the alternative quota established pursuant to subsection (1)(a) is the same or greater than the quota established under 16-4-201.

(b) A licensee holding a license under a quota area established under 16-4-201 may not:

(i) apply for a license under the alternative quota for a period of 1 year from the date the licensee's license under a quota established under 16-4-105 or 16-4-201 is transferred to a new purchaser. This subsection (6)(b)(i) applies within the boundaries of the incorporated city or town and within areas annexed into the incorporated city or town subsequent to the adoption of an alternative quota under subsection (1)(a).

(ii) transfer a license issued under a quota established under 16-4-201 into the boundaries of the incorporated city or town if issuance of the license would exceed the alternative quota under subsection (1)(a).

(7) If an incorporated city or town repeals an ordinance or resolution that established an alternative quota under subsection (1)(a), the quota established under 16-4-201 for licenses applies. A license that was in excess of the quota then in effect under 16-4-201 remains valid and is transferable only within the boundaries of the incorporated city or town. New licenses may not be issued in violation of limits set in 16-4-201.

(8) A separate ordinance or resolution must be used if an incorporated city or town seeks to adopt a quota under [section 1(1)(a)] and this section.

Section 3. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

(a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, \$500;

(ii) for each storage depot, \$400;

(b) (i) each beer wholesaler, \$400; each winery, \$200; each table wine distributor, \$400;

(ii) for each subwarehouse, \$400;

(c) each beer retailer, \$200;

(d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license;

(ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, \$200;

(e) any unit of a nationally chartered veterans' organization, \$50.

(2) The permit fee under 16-4-301(1) is computed at the following rate:

(a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests, other than those applied for pursuant to 16-4-301(1)(c); and

(b) \$1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c).

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

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

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

(6) The annual renewal fee for:

(a) a brewer producing 20,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; and

(b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license.

(7) Except as provided in this section, each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

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

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

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

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000 may not apply to any transfer or renewal of a license issued prior to July 1, 1974. However, all licenses are subject to the specified annual renewal fees.

(8) For a license to sell all beverages at retail in an alternative quota area under [section 2], the fee is the same as an all-beverages license under subsection (7).

~~(6)(9)~~ The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

~~(9)(10)~~ The annual fee for a retail beer and wine license to the Yellowstone airport is \$400.

~~(10)(11)~~ The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is \$250.

~~(11)(12)~~ The annual fee for a distillery is \$600.

~~(12)(13)~~ The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

~~(13)(14)~~ In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year

1 or 1 year and 2 months after the licensee's anniversary date.

2 ~~(14)~~(15) All license and permit fees collected under this section must be deposited as provided in
3 16-2-108."

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

7 (2) [Section 2] is intended to be codified as an integral part of Title 16, chapter 4, part 2, and the
8 provisions of Title 16, chapter 4, part 2, apply to [section 2].

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10 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2017.

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