

HOUSE BILL NO. 430

INTRODUCED BY A. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A LIMITED ALL-BEVERAGES LICENSE FOR CONTINUING CARE RETIREMENT COMMUNITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-4-201 AND 16-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Limited all-beverages license for continuing care retirement communities -- requirements -- definitions. (1) A continuing care retirement community may apply to the department for a limited all-beverages license that is exempt from the quota under 16-4-201 if the following conditions are met:

(a) the applicant meets the requirements of 16-4-401, complies with 16-4-207 and 16-4-402, and pays an application fee of \$2,000, which constitutes the first annual license fee. If an application is denied, the department shall refund 75% of the application fee. Annual license renewal fees are as provided in 16-4-501.

(b) the continuing care retirement community has a central dining area at which the alcoholic beverages may be served or purchased for on-premises consumption;

(c) the serving hours for alcoholic beverages are within the hours of 11 a.m. to 8 p.m.;

(d) those serving the alcoholic beverages must be 21 years of age or older and have completed the responsible server and sales training program provided for in 16-4-1006; and

(e) those purchasing the alcoholic beverages must be residents of the continuing care retirement community or guests of a resident of the continuing care retirement community.

(2) The limited all-beverages license for a continuing care retirement community is not transferable and does not authorize gaming or gambling under Title 23, chapter 5, parts 3, 5, or 6, but may allow live bingo or keno if the continuing care retirement community is authorized under 23-5-405 for live bingo and keno and complies with Title 23, chapter 5, part 4.

(3) The continuing care retirement community with a limited all-beverages license shall prohibit alcohol in the dining facility that was not purchased from the continuing care retirement community. This subsection does not require a ban from the residents' residential areas of any alcoholic beverages otherwise obtained by the

1 residents.

2 (4) For the purposes of this section, the following definitions apply:

3 (a) (i) "Continuing care retirement community" means a for-profit or not-for-profit independent living
4 facility that provides to an adult under one contract residential amenities and full-time residential housing, which
5 may be a room, apartment, or freestanding unit within the grounds of the facility. The facility must include at least
6 two levels of care ranging from independent living to an assisted living facility licensed as a category A facility
7 under 50-5-227. The term may include a retirement home as defined in 23-5-406 or a long-term care facility as
8 defined in 50-5-101.

9 (ii) The term does not include an assisted living facility licensed as category B or C, a community
10 residential facility as defined in 76-2-411, or a hospice as defined in 50-5-101.

11 (b) "Guest" means an individual who is either the nonresident spouse of a resident of the continuing care
12 retirement community or an individual invited by a resident to dine.

13 (c) "On-premises" means within the confines of the continuing care retirement community.

14 (d) "Residential amenities" must include a centrally operated kitchen that provides one or more meals
15 a day, 7 days a week. Other residential amenities include centralized housekeeping and grounds upkeep.

16

17 **Section 2.** Section 16-4-201, MCA, is amended to read:

18 **"16-4-201. All-beverages license quota.** (1) Except as otherwise provided by law, a license to sell
19 liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and
20 the rules of the department, may be issued to any person who is approved by the department as a fit and proper
21 person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may
22 issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from
23 the corporate limits of those cities and towns must be determined on the basis of population prescribed in
24 16-4-502 as follows:

25 (a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate
26 limits of the towns, not more than two retail licenses;

27 (b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000
28 inhabitants and within a distance of 5 miles from the corporate limits of the cities and towns, three retail licenses
29 for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

30 (c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate

limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of the inhabitants in cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns, governs the number of retail licenses that may be issued for use within the cities and towns and within a distance of 5 miles from the corporate limits of the cities or towns. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of the municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both of the municipalities and may not exceed the limitations in subsection (1) or this subsection. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(4) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to:

(a) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985; or to;

(b) any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949; or

(c) a continuing care retirement community as provided in [section 1].

(5) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits of a city or town may not be more than one license for each 750 population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(6) An all-beverages license issued under subsection (5) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of annexation."

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2 **Section 3.** Section 16-4-501, MCA, is amended to read:3 **"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table wine
4 only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise
5 specified in this section, the fee is an annual fee and is imposed as follows:6 (a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale
7 within the state, \$500;

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

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

10 (ii) for each subwarehouse, \$400;

11 (c) each beer retailer, \$200;

12 (d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer
13 license;14 (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction
15 with beer, \$200;

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

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

18 (a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests,
19 other than those applied for pursuant to 16-4-301(1)(c); and20 (b) \$1,000 a season for professional sporting contests or junior hockey contests held under the
21 provisions of 16-4-301(1)(c).22 (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
23 of all alcoholic beverages.24 (4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee
25 in the sum of \$300.26 (5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to
27 a beer-only license pursuant to 16-4-105, is \$200.

28 (6) The annual renewal fee for:

29 (a) a brewer producing 20,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; ~~and~~30 (b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license; and

1 (c) a continuing care retirement community is \$2,000 for each license.

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

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

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

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

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

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

27 (f) an applicant for the issuance of an original license to be located in areas described in subsections
28 (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's
29 ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000
30 for a license issued. The one-time license fee of \$20,000 may not apply to any transfer or renewal of a license

1 issued prior to July 1, 1974. However, all licenses are subject to the specified annual renewal fees.

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

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

4 (10) The annual fee for a special beer and table wine license for a nonprofit arts organization under
5 16-4-303 is \$250.

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

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

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

14 (14) All license and permit fees collected under this section must be deposited as provided in 16-2-108."
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16 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
17 integral part of Title 16, chapter 4, part 3, and the provisions of Title 16, chapter 4, part 3, apply to [section 1].
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19 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 2017.

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