

HOUSE BILL NO. 633
INTRODUCED BY E. DUTTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE TRANSFER OF ALL-BEVERAGES LIQUOR LICENSES TO A QUOTA AREA PURSUANT TO A DEPARTMENT-CONDUCTED LOTTERY; PROVIDING THAT THE OWNER OF A LOTTERY-TRANSFERRED ALL-BEVERAGES LIQUOR LICENSE IS NOT ELIGIBLE TO OFFER GAMBLING; ALLOWING A PERSON TO APPLY FOR A LOTTERY ALL-BEVERAGES LIQUOR LICENSE TRANSFER ONLY ONCE IN EVERY 12-MONTH PERIOD; REQUIRING A LETTER OF CREDIT TO ACCOMPANY AN ALL-BEVERAGE LIQUOR LICENSE LOTTERY TRANSFER APPLICATION; PROVIDING THAT AN APPLICANT OR A PERSON WITH AN OWNERSHIP INTEREST IN AN APPLICANT MAY NOT HAVE AN OWNERSHIP INTEREST IN AN ALL-BEVERAGES LIQUOR LICENSE; REQUIRING THAT A SUCCESSFUL APPLICANT FOR A LOTTERY-AWARDED ALL-BEVERAGES LIQUOR LICENSE COMMENCE BUSINESS WITHIN 1 YEAR; AND AMENDING SECTIONS 16-4-204 AND 23-5-119, MCA."

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

Section 1. Section 16-4-204, MCA, is amended to read:

"16-4-204. Transfer -- catering endorsement. (1) (a) Except as provided in subsection ~~(1)(b)~~ (1)(d), a license may be transferred to a new ownership and to a location outside the quota area for which it was originally issued only when the following criteria are met:

(i) the total number of all-beverages licenses in the original quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within a distance of 5 miles from its corporate limits by more than 43%; ~~and~~

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by ~~such~~ a transfer; and

(iv) an applicant for the new ownership to be awarded on a lottery basis by the department has met the following criteria:

(A) the applicant had not made another application under this subsection (1)(a) for a lottery-awarded license within the previous 12 months; and

(B) the applicant has provided with the application an irrevocable letter of credit from a financial institution that guarantees the applicant's ability to pay \$100,000-; AND

(C) THE APPLICANT OR, IF THE APPLICANT IS NOT AN INDIVIDUAL, A PERSON WITH AN OWNERSHIP INTEREST IN THE APPLICANT DOES NOT HAVE AN OWNERSHIP INTEREST IN AN ALL-BEVERAGES LICENSE.

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a lottery is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(c) A successful lottery applicant shall commence business within 1 year of the lottery unless the department grants an extension because a delay was caused by circumstances beyond the control of the applicant.

~~(b)~~(d) A license within an incorporated quota area may be transferred to a new ownership and to a new unincorporated location within the same county on application to and with consent of the department when the quota of the all-beverages licenses in the original quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

~~(c)~~(e) For ~~3~~ 5 years after the transfer of a license between quota areas under subsection (1)(a), the license may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee.

~~(d)~~(f) Once a license is transferred to a new quota area under subsection (1)(a), it may not be transferred to another quota area or back to the original quota area.

~~(e)~~(g) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

(2) (a) Any all-beverages licensee is, upon the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the

department for its approval.

(c) An all-beverages licensee who holds an endorsement granted under this subsection (2) may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.

(d) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A fee of \$35 must accompany the notice.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(g) A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(h) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended."

Section 2. Section 23-5-119, MCA, is amended to read:

"23-5-119. Appropriate alcoholic beverage license for certain gambling activities. (1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant shall own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but a license transferred after July 1, 2007, to a quota area pursuant to a department-conducted lottery under 16-4-204(1)(a) is not eligible to offer gambling;

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises;

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(e). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6;

(d) a retail beer and wine license issued under 16-4-109;

(e) a retail all-beverages license issued under 16-4-202; or

(f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6."

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