

**Amendment - 2nd Reading-yellow - Requested by: Laurie Bishop - (H) Committee of the Whole**

68th Legislature

Drafter: Jameson Walker, 406-444-3722

HB0165.002.001

HOUSE BILL NO. 165

INTRODUCED BY D. HARVEY, J. KARLEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALCOHOLIC BEVERAGE LAWS RELATING TO THE NUMBER AND LOCATION OF AGENCY STORES; CLARIFYING THAT A COMMUNITY WITH AN EXISTING AGENCY LIQUOR STORE MAY OBTAIN ADDITIONAL AGENCY LIQUOR STORES IF CERTAIN POPULATION REQUIREMENTS ARE MET; PROVIDING FOR COMPETITIVE BIDDING OF AGENCY LIQUOR STORES; PROVIDING COMMISSION RATES FOR NEW AGENCY LIQUOR STORES; AMENDING SECTION SECTIONS 16-2-101 AND 16-2-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. SECTION 1. COMPETITIVE BIDDING. (1) (A) WHEN THE DEPARTMENT DETERMINES THAT AN AREA IS ELIGIBLE FOR AN AGENCY STORE UNDER 16-2-109, THE DEPARTMENT SHALL USE A COMPETITIVE BIDDING PROCESS TO DETERMINE THE PARTY AFFORDED THE OPPORTUNITY TO BE AWARDED THE AGENCY FRANCHISE AGREEMENT.

(B) THE DEPARTMENT SHALL DETERMINE THE MINIMUM BID BASED ON POPULATION AS FOLLOWS:

(i) \$225,000 FOR A QUOTA AREA WITH A POPULATION OF 1,000 OR LESS;

(ii) \$425,000 FOR A QUOTA AREA WITH A POPULATION BETWEEN 1,001 AND 2,000;

(iii) \$900,000 FOR A QUOTA AREA WITH A POPULATION BETWEEN 2,001 AND 5,000;

(iv) \$2,000,000 FOR A QUOTA AREA WITH A POPULATION BETWEEN 5,001 AND 10,000; AND

(v) \$3,250,000 FOR A QUOTA AREA WITH A POPULATION GREATER THAN 10,000.

(2) (A) TO ENTER THE COMPETITIVE BIDDING PROCESS, A BIDDER SHALL SUBMIT AN ELECTRONIC BID FORM PROVIDED BY THE DEPARTMENT.

(B) THE DEPARTMENT SHALL CONTACT ANY BIDDER WHOSE TIMELY SUBMITTED BID FORM HAS A DEFICIENCY AND SHALL PROVIDE THE BIDDER WITH AN OPPORTUNITY TO RESUBMIT THE BID FORM WITHIN 5 BUSINESS

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DAYS TO CORRECT ANY DEFICIENCY.

(3) IN THE CASE OF A TIE FOR THE HIGHEST BID, THE TIED BIDDERS MAY SUBMIT NEW BIDS. THE MINIMUM BID MUST BE THE TIED BID AMOUNT. TO SUBMIT A NEW BID, A TIED BIDDER SHALL SUBMIT AN ELECTRONIC BID FORM PROVIDED BY THE DEPARTMENT.

(4) TO BE AWARDED THE AGENCY FRANCHISE AGREEMENT, THE HIGHEST BIDDER SHALL:

(A) SUBMIT ALL THE INFORMATION NECESSARY FOR THE DEPARTMENT TO DETERMINE SUITABILITY TO OPERATE AN AGENCY LIQUOR STORE WITHIN 60 DAYS OF THE DEPARTMENT'S NOTIFICATION OF BEING THE HIGHEST BIDDER;

(B) PAY THE BID AMOUNT PRIOR TO BEING AWARDED THE AGENCY FRANCHISE AGREEMENT;

(C) MEET ALL OTHER REQUIREMENTS TO OPERATE AN AGENCY LIQUOR STORE; AND

(D) COMMENCE BUSINESS WITHIN 1 YEAR OF THE DEPARTMENT'S NOTIFICATION, UNLESS THE DEPARTMENT GRANTS AN EXTENSION BECAUSE COMMENCEMENT WAS DELAYED BY CIRCUMSTANCES BEYOND THE BIDDER'S CONTROL. ANY EXTENSION REQUEST MUST BE MADE IN WRITING TO THE DEPARTMENT PRIOR TO THE DEADLINE FOR COMMENCING BUSINESS.

(5) IF THE HIGHEST BIDDER IS NOT AWARDED THE AGENCY FRANCHISE AGREEMENT, THE DEPARTMENT SHALL OFFER THE OPPORTUNITY TO BE AWARDED THE AGENCY FRANCHISE AGREEMENT TO THE NEXT HIGHEST BIDDER. THAT BIDDER SHALL COMPLY WITH THE REQUIREMENTS OF SUBSECTION (4). IF NO QUALIFIED BIDDER IS APPROVED TO OPERATE THE AGENCY LIQUOR STORE, THE DEPARTMENT SHALL REOPEN THE COMPETITIVE BIDDING PROCESS.

(6) IF NO BIDS ARE RECEIVED DURING THE COMPETITIVE BIDDING PROCESS, THE DEPARTMENT SHALL REOPEN THE BID AT A LOWER BID AMOUNT THAN INITIALLY DETERMINED IN SUBSECTION (1).

(7) The department shall transfer all funds collected pursuant to this section to the department of public health and human services to be used to support grants to school and community-based organizations for afterschool and summer programs for school-age youth.

**SECTION 2. SECTION 16-2-101, MCA, IS AMENDED TO READ:**

**"16-2-101. Establishment and closure of agency liquor stores -- agency franchise agreement -- kinds and prices of liquor. (1) The department shall enter into agency franchise agreements to operate**