

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 8, 1991, at 10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 76

Presentation and Opening Statement by Sponsor:

Representative Bud Gould, sponsor of the bill, stated that this bill is a very fair and equitable bill. The house business committee put the bill into a subcommittee, and there were a lot of changes that were made by this subcommittee and adopted by the full committee. The changes made should satisfy both sides. This bill takes in having two distributors in an area, and how they will be fairly treated. It is fair to the wineries, it should make them feel that they have people in the state of Montana that want to do business with them, and want to stay in business with them.

Proponents' Testimony:

Representative Bob Pavlovich stated that he worked on the subcommittee on this bill in the house. This bill has been floating back and forth since 1981. This year we have come up

with a bill that is very workable. He stated that he was concerned about the language on line eighteen, page six, section five of the bill, so he proposed an amendment that will protect all of the beverage license holders in the state of Montana if something should happen between the distributor and the beverage license holder. If he doesn't like him, then he is able to buy his wine from any other distributor in the state of Montana as long as he has that license.

Brian Clark, a wholesaler from Kalispell and the president of the Montana beer and wine wholesaler's association (MBWWA), stated that the board of MBWWA has identified, and the general membership has ratified the priority of wine legislation as their single most important issue in the 1991 legislative agenda. The fundamental distinction between simply wholesaling and the beverage distributing business is the principal in concept of goodwill. Goodwill is that value added asset building concept on of a particular brand or beverage, and in this case wine. It is the amount of space, or position, of a supermarket manager is willing to allocate to a brand. Goodwill is a restaurant owners willingness to have that brand of wine carried and listed on his wine list. It is a tavern owner offering that brand of wine as their house wine, and by the glass. HB 76 is a simple matter of fairness based on well documented precedence in this state.

Robert Zucconi, representing Zeke's distributing in Helena, stated that he was dealt a very severe hand by a winery. After representing a company since 1983, he received a letter in the mail stating that after six years, his services were no longer needed. This was twenty percent of his business, and he had no resource or anything to do with this particular court. He won a settlement of "x" amount of dollars. They took it to the supreme court and they through it out because there was one letter that was not acceptable. He would have to go back for retrial, and because of the cost of retrial and time, he settled out of court. This bill will take precedence in this situation, and it is fair.

Dave Hewitt, with Clausen's distributing company in Helena, stated that he was also involved in the law suit with Robert Zucconi. They also received a letter (See Exhibit 1).

Dale Markovich, representing Butte America, stated that they do not expect permanent contracts with their wineries regardless of how well, or how poorly they prefect. They would like a relationship similar to what they have with their own employees under the wrongful discharge law. That is, if an employee consistently fouls up after reputed warnings and statements as to their expectations, they can discharge them. Our legal system, as the state's supreme court has interpreted lets them down.

Ed Brant, a wine distributor from Bozeman, Montana, stated his name in support of the bill.

Don Brocopp, representing intermountain distributing in Billings, MT, stated his name in support of the bill.

Karl Rembe, representing MBBWA in Great Falls, Montana, stated his name in support of the bill.

Pete Decker, representing Brigg's distributing in Billings, Montana, stated his name in support of the bill.

Bill Liken, representing a beverage company in Missoula,

Montana, stated his name in support of the bill.

Roger Tippy, the executive secretary and legal council of the Montana beer and wine wholesaler's association, spoke in favor of the bill (See Exhibit 2, Exhibit 2A, Exhibit 2B, Exhibit 2C, Exhibit 2D).

Opponents' Testimony:

Mona Jamieson, representing the wine institute, stated that there are wines that sit on a shelf and are not marketed. Unless you are really on the far end, you're the biggest producer, or the biggest grower, where there is a lot of popularity associated with a particular brand, sometimes the distributors treat the wineries unfairly. With that many different wineries, the smaller ones would love aggressive marketing by the distributors. That does not always happen. This bill represents for the first time in Montana, it passed the regulation of the business relationships between the growers and the distributors. This is the first franchise law that would relate to the wine industry. If the bill is passed, let's walk, and not run. The problems that are related to you, are not always one sided, it goes both ways. It is not a simple matter of fairness, it is a complicated matter of market regulation. It is the government imposing contractual provisions between the growers and the distributors. Brown-Forman treated their distributor unfairly. The distributor won, they had to pay court costs and attorney fees. California coolers is no longer marketed. You cannot continually treat distributors like that, and have the market survive. The free market place is fair to actions like that. This is a bad business relationship, where now we will have law. She proposed an amendment to the bill (See Exhibit 3).

Sydney Abrams, representing the wine institute, stated that there is a tremendous common interest between the wineries and the wholesalers in the northwest. Any winery, to be successful, must have the goodwill of the wholesaler. Small wineries cannot afford to go to court and dispute things.

Questions From Committee Members:

Senator Thayer asked if Roger Tippy had a reaction to the amendments proposed by Mona Jamieson.

Roger Tippy replied that he did. Liquidated damages, word for word, from chapter one sixty nine, Washington laws of 1984 states "annotated if it were a lawyer's relief act there would be many court decisions recorded under it", there are not. It works in Washington. Good cause, model act language suggested by the wine and spirits wholesaler's of America. Every word in that including "essential" provided such requirements are imposed from all other equally situated distributors, has been suggested by that trade association because of cases such as the Nevada case.

Senator Gage asked Mona Jamieson about the statement she made regarding clarity and fairness, and with regards to her sixth amendment.

Mona Jamieson replied the sixth amendment, they are moving

back on. She stated that amendment six should be stricken.

Senator Williams stated in Mona Jamieson's testimony, he understands that she feels that there is a need for a bill like this, but it needs to be tuned up a little bit.

Mona Jamieson replied no. Let the free market work, let the people contract. We should fine tune this bill to Montana.

Senator Lynch asked about page four of the bill, on the mention of the fair market price. You shouldn't measure doing away with a wine distributorship based on the price of the whole business, because eighty percent of the business is probably the beer business.

Roger Tippy replied that the business that they are talking about is the business in that particular brand.

Senator Lynch asked that Roger Tippy clarify this, and stated that he wasn't going to appoint a formal subcommittee, but would like anyone interested to meet with him at three o'clock on Monday.

Closing by Sponsor:

Representative Gould closed by saying that this bill is walking and not running. This bill was patterned after a Washington law. The bill two years ago was running, it was patterned after the Michigan legislation. This bill is about an important matter that the committee should keep in mind.

HEARING ON HOUSE BILL 479

Presentation and Opening Statement by Sponsor:

Representative Harriet Hayne stated that HB 479 would enable the board of investments to allow certain non profit corporations to qualify for in state investments of the state's funds. At present, they are not allowed to do so. This bill would not require the board of investments to make buildings, and expansion loans to non profit organizations. It would require them to consider those good and reliable loan requests from those sources who have proved to have a good and dependable record in repaying loans in past business operations.

Proponents' Testimony:

Dave Lewis, executive director of the Montana board of investments, stated that the board has never done loans based on profits. When the coal tax loan program started, there was a concern there was going to be so much of a demand for the loans, that they should be restricted to non profit organizations. Over the last ten years that they have been running the program, they found that they do have enough money. They would adopt rules that would require any loans would have to have new jobs attached to them. They would have to meet the same criteria as the other loans that they do.

Robert MacGilvra, a member of the board of director's for the horizon lodge, stated that horizon lodge presently serves one

hundred and twenty four residents. It has an audited waiting list of one hundred and two people. Three years ago, horizon lodge instituted a program to provide personal care for a limited number of its residents. This service has strengthened their waiting list. This has been determined both by audit and preliminary feasibility studies to determine the wisdom in enlarging their facility. The problem that horizon lodge, and other retirement facilities face is in the five borrowers eligibility requirements. Horizon lodge is a non profit organization. They need a looser term of non profit. Non profit is much too broad of a term. There are some non profit organizations which should be excluded. The exclusion criterium could be left to the wisdom of the board of investments, with the possible endorsements of local governments such as the county commissioner's office.

Steven Stanley, chief executive officer of horizon lodge, and vice president of the Montana association of homes for the aging, stated that the projects are limited in cash flow, and are not allowed to have reserve accounts of any value. The elderly population is the fastest growing population, particularly in Montana.

Bill Leary, representing the Montana banker's association, stated that they are in support of HB 479.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Thayer asked that Representative Hayne explain the rational for all of the stricken language.

Bart Campbell stated that he could answer the question of Senator Thayer. He stated that when he first was asked to draft the bill, in speaking with the board, they had talked about setting out some specific criteria with the board. He drafted it initially that way. After the bill went through the process, it became clear that it would be better if they made it less specific.

Closing by Sponsor:

Representative Hayne closed.

EXECUTIVE ACTION ON HOUSE BILL 479

Motion:

Senator Kennedy moved that HB 479 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

HB 479 passed unanimously. Senator Gage will carry the bill.

HEARING ON HOUSE BILL 816

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington, sponsor of the bill, stated that in 1983 we passed a lemon law for the state of Montana which is a protection to the consumer against automobiles. It has forced the automobile industry to recognize the fact that we do have this law. From time to time, they have been able with cars that have been brought in to state that these cars are lemons, and the people are either given a new car, or their car is repaired to their satisfaction. When the law was passed in 1983, the senate removed RV vehicles. There has been some serious problems with the purchasing of these vehicles.

Proponents' Testimony:

Joseph Schrage, an RV owner, stated that last March they purchased a sixty eight thousand dollar motorhome. They have had nothing but problems. They checked the lemon law, and they informed them that it was only up to ten thousand pound vehicles. It leaves them out completely. They submitted a written letter to the winnebago industry (See Exhibit 4).

Violet Schrage, an RV owner, stated that not only do they have problems with the motor home itself, there has been three factory recalls on the brakes. They are literally afraid for their lives. They have no recourse without a lemon law with an RV.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Williams asked if winnebago make their own chassis. Joseph Schrage replied that they make several different ones.

Senator Williams asked if winnebago has a warranty on their chassis.

Joseph Schrage replied no.

Senator Lynch asked if Representative Harrington had any objections to the amendments.

Representative Harrington replied that the problem he has is the fixtures, etc. should be included. Thirty thousand dollars of the sixty four thousand dollars would be the fixtures. They should be covered in the lemon law.

Senator Williams stated that there should be separate warranties for different fixtures.

Closing by Sponsor:

Representative Harrington closed by saying that he will try to amend the bill. It is important for people to know that they can come to Helena.

HEARING ON HOUSE BILL 779

Presentation and Opening Statement by Sponsor:

Representative Brent Crowley, sponsor of the bill, stated that this is a fair bill. Trust indentures, since 1963 have been used as an alternate financing vehicles by lenders and buyers. The trust indentures have advantages to both the lenders and the buyers. The lender, if a foreclosure is required, there is a notice that is given to the homeowner through publication at home. There is a period of one hundred and twenty days, which must elapse before the sale takes place. The advantage to the buyer is that once the process goes through the sale, there can be no deficiency judgement in the state of Montana. This bill comes from a problem when the homeowner or purchaser files for bankruptcy, sometimes during this one hundred and twenty day period. The intent of this bill is to extend the period of time for the original sale in order to avoid the duplication of the original costs and the original notices that have gone out. This bill would allow the trustee at the time that the original scheduled sale, to extend the period of thirty days beyond the original date of sale. This can be done a maximum of four times.

Proponents' Testimony:

Gene Philips, representing the Montana land title association, Jock Anderson, and the first interstate bank of Montana, stated that all of these entities support this bill.

Bill Leary, representing the Montana banker's association, stated that they support HB 779.

Bob Pyfer, vice president of the Montana credit union's league, stated that the bill will save costs and delays to all parties concerned.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Thayer asked if this bill changed anything on the deficiency judgements.

Representative Cromley replied no.

Closing by Sponsor:

Representative Cromley closed.

EXECUTIVE ACTION ON HOUSE BILL 779

Motion:

Senator Noble moved that HB 779 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

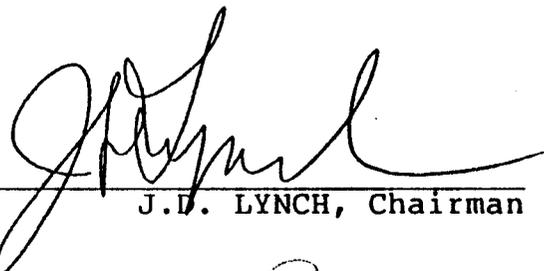
None

Recommendation and Vote:

The motion made that HB 779 be concurred in passed unanimously. Senator Kennedy will carry the bill to the floor.

ADJOURNMENT

Adjournment At: 11:45 a.m.



J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE

3/8/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Joseph C. Schrage	R.V. Lemon Law	HB 816	✓	
Robert W. Schrage	Lemon Law	HB 816	✓	
Mr and Mrs Frank Reinisch	R.V. Lemon Law	HB 816	✓	
EROME D. WINES	R.V. " "	HB 816		
R Budd Gould	Sponsor	HB 76	✓	
JACK HAYLIE	Club	HB 779	✓	
Bill Washburn	Beer & Wine Business	HB 76	✓	
DAVE Hewitt	Beer & Wine Dist.	HB 76	✓	
ED BRANDT	Beer & Wine Dist	HB 76	✓	
Dale Mackovich	Beer & Wine Dist	HB 76	✓	
Harold Rembe	MBWA	HB 76	✓	
Ate Beckey	Briggs Dist Co.	HB 76	✓	
Brian C. Clark	Ben & Winell Winery Assoc	HB 76	✓	
Robert Zucconi	Beer & Wine Dist	HB 76	✓	
Anna Kaon	Day Revenue	HB 76	—	—
GENE PHILLIPS	MT. LAND TITLE Assoc	HB 779	X	
Mona Jamison	WINE INSTITUTE	HB 76		X
Sydney Abrams	Wine Institute - Calif, Oregon & Wash	HB 76		✓
Don Brocopp	Intermountain Dist	HB-76	X	
Robert MacCallister	Horizon Lodge	HB 479	X	
Dave Lewis	Board of Investment	HB 479	X	
Steve Stanley	C.E.D Horizon Lodge	HB 479	X	
Bob Pyfer	MT Credit Unions League	779	X	

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8th day of March, 1991.

Name: Mona Jansen

Address: Power Block, Suite 42
Helena, MT 59601

Telephone Number: (406) 442-5581

Representing whom?
WIFE Substitute

Appearing on which proposal?
11B 76

Do you: Support? Amend? Oppose?

Comments:
Beef sales to far-in terms of
regulating contractual relationships
between winery + distributors.

EXHIBIT "B"

EXHIBIT NO. 1
DATE 3/8/91
BILL NO. HB 76

Brown-Forman Corporation

502 301 000 LOUISVILLE KY 40201 502 333-1100

February 12, 1987

Mr. Robert Clausen, Owner
CLAUSEN'S DISTRIBUTING COMPANY
PO BOX 238
Helena, MT 59624

Dear Robert:

As you know, Brown-Forman has recently announced a major reorganization of its sales organization. The four selling divisions -- Jack Daniel Distillery, B-F Spirits Ltd., The Jos. Garneau Co. and California Cooler Company - were consolidated into a single sales force. Our reorganization was done to recognize changing market conditions, to make Brown-Forman more competitive, and to maintain Brown-Forman's position as a major beverage marketer in the future.

To accomplish our goals, Brown-Forman intends to continue its long-term policy of distributor consolidation, wherever possible, to make its new organization more effective in an increasingly competitive marketplace.

The need for a definitive understanding of our business relationship has never been more important. Therefore, we will require your execution of a standard contract for California Cooler products and, in the very near future, a standard contract covering Brown-Forman products currently sold by you. Your refusal to execute an agreement covering Brown-Forman products currently distributed will be detrimental to our continued relationship and could ultimately lead to a termination of our relationship.

I trust you will share our desire for a contract and will find the proposed agreement fair and equitable when you have an opportunity to review it.

PLAINTIFF'S EXHIBIT
21



**Montana
Beer & Wine
Wholesalers
Association**

Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3/8/91
BILL NO. HB 76

BEFORE THE BUSINESS & INDUSTRY COMMITTEE
MONTANA SENATE

Hearing on HB76) TESTIMONY
(Wine Distribution Act)) IN SUPPORT
March 8, 1991)

The most common reasons state legislatures enact laws regulating private franchise contracts are that the parties do not have equal bargaining power and that one party is likely to engage in coercive or oppressive behavior. The courts, asked to apply traditional contract law, don't take these market conditions into account because inequality, coercion and the like are more appropriately legislative judgments. The common law doesn't work, as Mr. Zucconi's story so clearly shows.

House Bill 76 is not an unusual idea in the codes of Montana or of most other states. Besides the 1974 law regulating beer distributing agreements, this legislature has enacted laws for the automobile dealers in 1977 and for the farm implement dealers in 1983, extending the latter statute to cover snowmobiles, motor-cycles and recreational vehicles in 1989. One of our exhibits shows how widespread the enactment of franchise laws has been in all 50 states. About 20 of the states have enacted laws which cover the winery-wine distributor relationship. We have looked at most of them and selected the law of the state of Washington as our model.

The Washington law is weaker than many of the other state's laws. It does not provide for exclusive territory. It does not provide for attorneys' fees for a distributor who prevails in a lawsuit to enjoin or recover damages for a cancellation. And it does not define good cause.

We have gone along with the Washington law in most of these concessions to the wineries. The difference is that we have suggested a statutory definition of "good cause." This is because

EXHIBIT NO. 2A
DATE 3/8/91
\$ 295 SB 76

§ 295 PRIVATE FRANCHISE CONTRACTS 62B Am Jur 2d

§ 295. State Localizer
ALABAMA:
Deceptive Trade Practices Act (Ala Code) §§ 8-19-1 to 8-19-15.
Motor Vehicle Franchise Act (Ala Code) §§ 8-20-1 to 8-20-12.
Farm Equipment Inventory (Ala Code) §§ 8-21-1 to 8-21-14.
Motor Fuel Marketing Act (Ala Code) §§ 8-22-1 to 8-22-18.
Liquor (Ala Code) §§ 28-8-1 to 28-8-8.
ALASKA:
Gasoline Products Leasing Act (Ak Stat) §§ 45.50.800 to 45.50.850.
ARIZONA:
Motor Vehicle Act (Ariz Rev Stat) §§ 28-1302, 28-1304.02.
Petroleum Products Franchises (Ariz Rev Stat) §§ 44-1551, 44-1559.
Termination of Beer and Liquor Franchises (Ariz Rev Stat) §§ 44-1565 to 44-1567.

ARKANSAS:
Franchise Practice Act (Ark Stat Annot) §§ 4-72-201 to 4-72-209 (formerly §§ 70-807 to 70-817).
Gasoline Distributors and Dealers Acts (Ark Stat Annot) §§ 4-72-401 to 4-72-403 (formerly §§ 53-1001 to 53-1003); 4-72-501 to 4-72-503 (formerly §§ 53-1101 to 53-1103).
Farm Equipment Retailer Protection Act (Ark Stat Annot) §§ 4-72-301 to 4-72-309 (formerly §§ 70-819 to 70-826).
Arkansas Motor Vehicle Commission Act (Ark Stat Annot) §§ 23-112-101 to 23-112-105, 23-112-201 to 23-112-205, 23-112-301 to 23-112-311, 23-112-402 to 23-112-406, 23-112-501 to 23-112-509 (formerly §§ 75-2301 to 75-2312).

CALIFORNIA:
Franchise Investment Law (Ca Corp Code) §§ 31000 to 31516 (disclosure and registration requirements).
Permit Processing Times (Ca Admin Code) §§ 250.50, 250.51.
Franchise Relations Act (Ca Bus and Prof Code) §§ 20000 to 20043 (relationship termination and renewal laws).
Contracts for Seller-Assisted Marketing Plans (Ca Civil Code) §§ 1812.200 to 1812.220 (business opportunity laws).
Automobile Dealers Act (Ca Veh Code) §§ 3060 to 3069.
Petroleum Dealers and Distributors (Ca Bus and Prof Code) §§ 20999 to 20999.4.
California Fair Dealership Law (Ca Civil Code) §§ 80 to 86.
Relocation of Franchises in Shopping Centers (Laws of 1980, Ch 1355 § 5).
Discrimination (Ca Civ Code) Div 1, Part 2 § 51.8.

COLORADO:
Automobile Dealers (Colo Rev Stat) §§ 12-6-101, 12-6-102, 12-6-118 to 12-6-122, 12-6-301 to 12-6-303.
Farm Implements (Colo Rev Stat) §§ 35-38-101 to 35-38-110.

CONNECTICUT:
Termination and Renewal Law (Conn Gen Stat) §§ 42-133e to 42-133h.
93. McKenzie, Franchise regulation (Colo) 15 anybody here play this game? 54 Conn BJ 446. Colo Lawyer 395(3), March 1986.

94. Farrell, Franchising in Connecticut—can Oct 1980.

62B Am Jur 2d PRIVATE FRANCHISE CONTRACTS

Business Opportunities Law (Conn Gen Stat) §§ 36-503 to 36-521.
Petroleum Product Franchisors (Conn Gen Stat) §§ 42-133j to 42-133n.
Liquor Dealers (Conn Gen Stat) § 30-17.
Automobile Dealerships (Conn Gen Stat) §§ 42-133r to 42-133ec.
DELAWARE:
Prohibited Trade Practices (Del Code Annot) §§ 6-2551 to 6-2564.
Retail Sales of Motor Fuel (Del Code Annot) §§ 6-2901 to 6-2912.
Motor Vehicle Franchising Practices Act (Del Code Annot) §§ 6-4901 to 6-4918.
Pyramid or Chain Distribution Schemes (Del Code Annot) §§ 6-2561 to 2564.
Equipment Dealer Contracts (Del Code Annot) §§ 6-2720 to 6-2727 (construction, farm, industrial or outdoor power equipment).

FLORIDA:
Misrepresentation Law (Fla Stat Annot) § 817.416.
Business Opportunity Law (Fla Stat Annot) §§ 559.80 to 559.815.
Motor Vehicle Dealers (Fla Stat Annot) §§ 320.64 et seq.
Farm Equipment (Fla Stat Annot) §§ 686.201 to 686.418.
Motor Fuel (Fla Stat Annot) §§ 526.301 to 526.3135.
Beer (Fla Stat Annot) § 563.022.

GEORGIA:
Sale of Business Opportunities (Geo Code) §§ 10-1-410 to 10-1-416.
Gasoline Marketing Practices Act (Geo Code) §§ 10-1-230 to 10-1-241.
Motor Vehicle Franchise Practices Act (Geo Code) §§ 10-1-620 to 10-1-663.
Farm Equipment (Geo Code) §§ 13-8-31 to 13-8-45.
Optical Firms (Geo Code) § 43-30-5.1.

HAWAII:
Franchise Investment Law (HI Rev Stat) §§ 482E-1 to 482E-12.
Automobile Dealers Act (HI Rev Stat) § 437-28(b).
Gasoline Dealers Act (HI Rev Stat) §§ 486H-1 to 486H-9.
Office Machines (HI Rev Stat) §§ 481G-1 to 481G-8.

IDAHO:
Farm Implement Dealers (ID Code) §§ 28-23-101 to 28-23-111.
Automobile Dealers (ID Code) § 49-2414.
Beer Distributors (ID Code) § 23-1033A.
Wine Distribution (ID Code) § 23-1328A.

ILLINOIS:
Franchise Disclosure Act of 1987, Laws 1987, P.A. 85-551 §§ 1 to 44.
Motor Vehicle Franchise Act (Ill Rev Stat) Ch 121 1/2 §§ 751 to 764.
Farm, Industrial and Outdoor Power Equipment Fair Dealership Act (Ill Rev Stat) Ch 5 §§ 1501 to 1511.
Beer Wholesalers (Ill Rev Stat) Ch 43 §§ 301.1 to 302.

INDIANA:
Indiana Franchise Disclosure Law (Ind Code) §§ 23-2-2.5-1 to 23-2-2.5-50.
Indiana Deceptive Franchise Practice Law (Ind Code) §§ 23-2-2.7-1 to 23-2-2.7-7.

95. Branch, Franchising in Georgia, 24 Ca St BJ 92, Nov 1987.

Indiana Business Opportunity Transactions Act (Ind Code) §§ 24-5-8-1 to 24-5-8-21.
Motor Vehicle Code (Ind Code) §§ 9-10-1-1 to 9-10-5-5.
Beer Distributors (Ind Code) § 7.1-5-5-9.

IOWA:

Business Opportunity Sales Law (Iowa Code) §§ 523B.1 to 523B.11.
Motor Vehicle Franchisors (Iowa Code) §§ 322A.1 to 322A.17.
Marketing and Distribution of Motor Fuel and Special Fuel (Iowa Code) §§ 323.1 to 323.13, 323A.1 to 323A.3.
Farm Implements, Motorcycle and Parts Franchises (Iowa Code) §§ 322D-1 to 322D-8.

KANSAS:

Motor Vehicle Dealers (Kans Stat Annot) §§ 8-2401 et seq., (formerly §§ 8-2301 to 8-2323).
Farm Equipment Dealers (Kans Stat Annot) §§ 16-1001 to 16-1006.
Liquor Franchisors (Kans Stat Annot) §§ 41-410 to 41-411.

KENTUCKY:

Sale of Business Opportunities (Ky Rev Stat) §§ 367.801 to 367.819, 367.990.
Motor Vehicle Dealers (Ky Rev Stat) §§ 190.010 to 190.080.

LOUISIANA:

Business Opportunity Sellers and Agents (La Rev Stat) §§ 51:1821 to 51:1824.
Service Station Dealers Day in Court Law (La Rev Stat) §§ 51:1451 to 51:1454.
Motor Vehicle Dealers (La Rev Stat) § 32:1254A(4)(c).
Farm Equipment Dealers (La Rev Stat) § 51:481 to 51:487.
Sales Representatives (La Rev Stat) §§ 51:441 to 51:445.
Real Estate Agencies (Laws of 1983, Pub. Law No. 83-381).
Marine Products (Laws of 1987, Act 168).
Motorcycles (Laws of 1988, Act 327).
Motorcycles and ATV's (Laws of 1988, Act 820).

MAINE:

Business Opportunity Law (Maine Rev Stat Annot) Title 32, Ch 69-B §§ 4691 to 4700-B.
Motor Vehicle (Maine Rev Stat Annot) Title 10, Ch 204 §§ 1171 to 1186.
Motor Fuel Distribution Act (Maine Rev Stat Annot) Title 10, Ch 215 §§ 1451 to 1456.
Wine Franchises (Maine Rev Stat Annot) Title 28-A, Ch 57, §§ 1451 to 1465.

MARYLAND:

Franchise Registration and Disclosure Act (Annot Code of Md) Art 56 §§ 345 to 365D.
Franchise Registration and Disclosure Regulations Title 02, subtitle 02, Ch 10; State Law Dept, Div of Securities.
Business Opportunities Sales Act (Annot Code of Md) Art 56 §§ 401 to 415.

Gasoline Products Marketing Act (Annot Code of Md—Art Commercial Law, Title 11) §§ 11-301 to 11-308.
Beer Franchise Fair Dealing Act (Annot Code of Md) Art 2B §§ 203A to 203C.

Equity Participation Investment Program Law (Statute Extending Program to Franchising) (Annot Code of Md) Art 13 §§ 235 to 241.

MASSACHUSETTS:

Automobile Dealers' Act (Mass Gen Laws) Ch 93B §§ 1 to 15.
Gasoline Dealers' Act (Mass Gen Laws) Ch 93E §§ 1 to 9.
Alcoholic Liquors (Mass Gen Laws) Ch 138 § 25E (Unfair Trade Practices).

MICHIGAN:

Franchise Investment Law (Mich Compiled Laws) §§ 445.1501 to 445.1545.
Business Opportunity Act (Mich Compiled Laws) § 445.902.
Motor Vehicle Dealers (Mich Compiled Laws) §§ 445.1561 to 445.1583.
Farm and Utility Equipment Franchise Act (Mich Compiled Laws) §§ 445.1451 et seq.
Beer and Wine Wholesalers (Mich Compiled Laws) §§ 436.30a to 436.30d.

MINNESOTA:

Franchise Law (Minn Stat) §§ 80C.01 to 80C.22 (includes relationship termination and renewal provisions).
Powers of Commissioner of Commerce (Minn Stat) §§ 45.026 to 45.028 (includes investigation, hearing and enforcement powers pertaining to Ch 80C).

Automobile Dealers (Minn Stat) §§ 80E.01 to 80E.18.
Farm Implement Dealers (Minn Stat) § 325E.05.
Brewers and Beer Wholesalers (Minn Stat) §§ 325B.01 to 325B.17.
Motor Fuel Dealers (Minn Stat) § 80C.145.
Burglar Alarm Franchises (Minn Stat) § 80C.30.

MISSISSIPPI:

Pyramid Sales Schemes (Miss Code Annot) §§ 75-24-51 to 75-24-61 (termination and renewal laws).
Motor Vehicle Commission Act (Miss Code Annot) §§ 63-17-51 to 63-17-139.
Inventory Repurchase (Miss Code Annot) §§ 75-77-1 to 75-77-19.

MISSOURI:

Merchandising Practices Act (Mo Rev Stat) §§ 407.400 to 407.420 (includes pyramid sales law and termination law).
Farm Machinery Dealers' Dealership Agreements, Inventory Act (Mo Rev Stat) §§ 407.838 to 407.848.

MONTANA:

Farm Implement Manufacturer or Distributors—Repurchase of Retail Inventories (Mo Sess Laws, Mo Rev Stat) §§ 407.850 to 407.885.
Motor Vehicle Franchise Practices Act (Mo Rev Stat) §§ 407.810 to 407.835.

NEBRASKA:

Automobile Dealers (Mont Code Annot) §§ 61-4-201 to 61-4-210.
Brewers and Beer Sellers (Mont Code Annot) §§ 16-3-221 to 16-3-226.

96. May and Steinberg. Great expectations: 1984 amendments to the Michigan Franchise Investment Law, 64 Mich BJ 32, Jan 1985; Foley, The Slippery Slope of Renewal of Notice Filing under Michigan's Franchise Investment

Law, 8 Franchise LJ 3, Spring 1989.

97. Alden, Overview of franchising for general practitioner, 54 Hennepin Lawyer 12 (May-June 1985).

Automobile Dealers (Utah Code Annot) Title 41, Chs 3 and 4.
Gasoline Products Marketing Act §§ 13-12-1 to 13-12-8.

VERMONT:

Motor Vehicle Dealers Act (Vt Stat Annot) Title 9, Ch 107 §§ 4083 to 4100.
Gasoline Service Station Franchises (Vt Stat Annot) Title 9, Ch 109 §§ 4101 to 4109.
Beer and Wine Franchises (Vt Stat Annot) Title 7, Ch 23 §§ 701 to 708.

VIRGINIA:

Retail Franchising Act (Va Code) §§ 13.1-557 to 13.1-574.²
Business Opportunity Sales Act (Va Code) §§ 59.1-262 to 59.1-269.
Petroleum Products Franchise Act (Va Code) §§ 59.1-21.8 to 59.1-21.18:1.
Motor Vehicle Dealers (Va Code) §§ 46.1-546 to 46.1-550:5.
Beer Franchise Act (Va Code) §§ 4-118.3 to 4-118.20.

WASHINGTON:

Franchise Investment Protection Act (Wash Rev Code) §§ 19.100.010 to 19.100.940.
Business Opportunities Fraud Act (Wash Rev Code) §§ 19.110.010 to 19.110.930.
Motor Vehicles Dealers (Wash Rev Code) §§ 46.70.180(11), 46.70.190.
Farm Implement Dealers (Wash Rev Code) §§ 19.98.010 to 19.98.910.
Beer and Wine Wholesale Distributor Supplier Equity Act Wash 1984 Session Laws, Ch 169.
Gasoline Dealers' Bill of Rights Act 1986 Reg Session Laws, Ch 320.

WEST VIRGINIA:

Brewers and Beer Distributors Act (W Va Code) §§ 11-16-12a, 11-16-13b.
Motor Vehicle Manufacturers and Dealers (W Va Code) §§ 47-17-1 to 47-17-10. Repealed and replaced by Laws 1982, House Bill 1927, eff June 10, 1982 [now §§ 17A-6A-1 et seq.].
Petroleum Products Franchise Act (W Va Code) §§ 47-11C-1 to 47-11C-8.

WISCONSIN:

Franchise Investment Law (Wis Stat Annot) §§ 553.01 to 553.78.
Fair Dealership Law (Wis Stat Annot) §§ 135.01 to 135.07.
Automobile Dealers' Act (Wis Stat Annot) § 218.01(3)(a).

WYOMING:

Motor Vehicle Franchise Act (Wyo Stat Annot) §§ 40-15-101 to 40-15-109.
Repurchase of Farm Machinery Act (Wyo Stat Annot) §§ 40-18-101 to 40-18-107.

Practice guide: For a detailed analysis of franchise relationship laws, including popular names, types of law, statutory examples of good cause for termination, procedural requirements for termination and nonrenewal, and examples of other unlawful practices under various state statutory provisions, see the appendices following the article cited below.³

§ 296. —Other jurisdictions

PUERTO RICO:

Dealers' Contracts Act (PR Laws Annot) Title 10, Ch 14 §§ 278 to 278d (termination).

2. Climard and Peters, *The Virginia experience: retail franchise regulation*, 9 Va BAJ 20, 289 (Nov. 1989), at pp 321 et seq.

VIRGIN ISLANDS:

Consumer Protection Law Title 12A §§ 130-139 (Franchised Businesses).
ALBERTA, CANADA:
Franchises Act (Alb Rev Stat) Ch F-17 (disclosure and registration requirements).
Franchises Regulations Alberta Regulation 201/72.

B. FRANCHISE LAWS AND DOCUMENTS; DISCLOSURE/REGISTRATION REQUIREMENTS [§§ 297-323]

Research References

ALR Digest to 3d, 4th, and Federal, Franchises § 14
Index to Annotations, Franchises

1. IN GENERAL; VALIDITY [§§ 297-303]

§ 297. Generally

As noted earlier, some states have enacted laws dealing directly with the franchise relationship, including statutes requiring disclosure and/or registration patterned after federal and state securities acts, for the purpose of forcing complete disclosure of the information necessary to permit prospective franchisees to make intelligent decisions prior to the purchase of the franchise.⁴ Other franchise laws are concerned with the subsequent equally difficult problem of wrongful terminations, cancellations, or nonrenewals.⁵ However, there is no great uniformity among these statutes, which have various names, including Franchise Investment Law, Franchise Practices Act, Franchise Relations Act, Franchise Disclosure Act, Franchise Registration and Disclosure Act, or, very simply, Franchise Law.⁶

A state franchise sales statute serves legitimate state interests since the state has a valid interest in protecting prospective franchisees from unscrupulous franchisors, and the protection of investors is without question a legitimate state objective.⁷

Observation: Some state franchise statutes contain an anti-waiver

4. § 292.

Casey, *An Overview of Franchising Regulation*, 11 ALI-ABA Course Materials Journal 53, October 1986; Selden, *Public Regulation of Franchising: Choking the Goose That Lays the Golden Eggs?* 9 Franchise LJ 1, Fall 1989.

5. Generally as to termination, cancellation, or nonrenewal of franchises, see the discussion in §§ 507 et seq.
6. Horwitz and Volpe, *Regulating the franchise relationship*, 54 St. John's L Rev 217, Winter 1980; Santoni, *Franchising: a critical assessment of state and federal regulation*, 14 Creighton L Rev 67, Fall 1980; Cantor, *The federal and state regulation of franchises* (part 1), 27 Practical Lawyer 55, Sept 1981; Cantor, *The federal and state regulation of franchises* (part 2), 27 Practical Lawyer 77, Oct 15, 1981; Rudnick, *The Franchise Relationship: Problem Areas for the 1980s; Part I—Government Regulation*, 2 Franchise LJ 1, Summer/Fall 1982;

American Bar Association 12th Annual Forum on Franchising (1989); Barkoff, Calvani, and Hayden, *The Search for Uniformity in Franchise Sales Regulation—Don Quixote Rides Again*; Bjerke, Hayden, Nixey, Kingo and Tregillus, *Practical Problems under Registration and Disclosure Laws*; Spandorf, *An Overview of the Law and Requirements of Franchise Registration*.

7. *Mon-Shore Management, Inc. v Family Media, Inc.* (SD NY) 584 F Supp 186.

DISTRIBUTOR CONTRACT

THIS AGREEMENT made and entered into this, the _____ day of _____, 19____, by and between _____ COMPANY, a division _____ with principal offices at _____ hereinafter called "COMPANY," and _____ of _____ hereinafter called "DISTRIBUTOR;"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2B
DATE 3/8/91
BILL NO. HB 76

WITNESSETH:

WHEREAS, COMPANY is a producer, importer and distributor of spirits, wines, and speciality beverage products,

WHEREAS, DISTRIBUTOR warrants it is a licensed distributor of spirits and wines in the State of Montana and holds the necessary federal, state, and local permits authorizing it to distribute such beverages within the state and

WHEREAS, both COMPANY and DISTRIBUTOR desire that DISTRIBUTOR serve as a distributor of COMPANY in the State of Montana, and to define the responsibilities of both parties.

NOW, THEREFORE, for and in consideration of the premises and the further agreements herein contained, the parties agree as follows:

1. COMPANY appoints DISTRIBUTOR a distributor of the following listed products* of COMPANY (hereinafter referred to as "COMPANY'S PRODUCTS"):

within the following territory in the State of Montana:

COMPANY'S policy is to consolidate our brands with one distributor when possible. COMPANY will adjust items authorized to be sold by DISTRIBUTOR to accomplish our mutual goals to consolidate all brands in such a manner as to enhance efficient and profitable sale and promotion of its brands.

*Note: COMPANY PRODUCTS added to or deleted from the listed products will be subject to all the terms and conditions of this agreement and will be incorporated by reference.

2. The territory described herein shall be the area of primary responsibility of DISTRIBUTOR. DISTRIBUTOR shall devote its principal selling, promotional, marketing and distribution efforts to all licensed retailers located within the territory.

3. During the term of this agreement, COMPANY will sell to DISTRIBUTOR and DISTRIBUTOR will buy from COMPANY all of COMPANY'S DESIGNATED PRODUCTS in such quantities as are necessary to fill DISTRIBUTOR'S requirements to meet the demand therefor in said territory; provided, however, that COMPANY'S PRODUCTS may not always be available to fill all orders and COMPANY shall have the right to allocate to DISTRIBUTOR such proportion of the available supplies of COMPANY'S PRODUCTS as COMPANY, in its sole discretion, shall determine. DISTRIBUTOR acknowledges that in the normal course of business an "adequate inventory" by brand as determined and communicated by COMPANY is to be maintained in order to properly service retail outlets in the territory.

4. DISTRIBUTOR will furnish to COMPANY, in the form requested by it, sales and inventory records showing its sales and closing inventory of COMPANY'S PRODUCTS for the preceding month, which report shall be furnished to COMPANY not later than the 5th working day of the month following the reporting period. In addition, as requested by COMPANY, DISTRIBUTOR shall furnish in a timely manner reasonable marketing information, such as, distribution surveys, key account information and sales figures, account-sold reports, and similar type information relating to field activities in order for the COMPANY to be fully informed for analysis of the territory. COMPANY shall, upon reasonable notice, have the right to take a physical inventory of COMPANY'S PRODUCTS stored in DISTRIBUTOR'S warehouses.

5. (a) DISTRIBUTOR will exert its best efforts to develop the full potential for, and diligently sell, distribute and promote said COMPANY'S PRODUCTS, in all licensed retail outlets in the territory. DISTRIBUTOR will exert its best efforts to maintain and grow the market share of COMPANY'S PRODUCTS considering the regional and/or national performance of the individual brands and the general business climate including marketing support by the COMPANY.

(b) DISTRIBUTOR will be responsible for proper distribution services for all COMPANY'S PRODUCTS purchased by DISTRIBUTOR. Proper distribution services will be defined by COMPANY and communicated to DISTRIBUTOR in a set of written distribution standards which shall include, but shall not be limited to, requiring its salesmen to personally contact all retailers within the territory normally covered by DISTRIBUTOR at reasonable intervals in an attempt to sell COMPANY'S PRODUCTS, maintaining an adequately trained sales management team and sales force to properly represent and promote such sales, proper stock rotation so as to maintain product quality, proper shelf and cold box conditions by brand as communicated by COMPANY, proper execution of COMPANY'S

promotional programs by utilization of point-of-sale, floor, and other display materials, and maintenance of in-stock conditions for COMPANY'S PRODUCTS in each individual store, wherever located, selling COMPANY'S PRODUCTS.

6. The prices at which COMPANY shall sell its products to DISTRIBUTOR and the prices at which DISTRIBUTOR shall buy COMPANY'S PRODUCTS shall be the prices currently in effect in the territory at the time of shipment, with the right reserved by COMPANY to change its prices, in its sole discretion, from time to time on fifteen (15) days' notice, except that any price change brought about by taxation may be accomplished without such notice.

7. Each order submitted by DISTRIBUTOR to COMPANY shall be subject to COMPANY'S acceptance at its home office in [REDACTED] Terms of payment stipulated by COMPANY on each invoice to DISTRIBUTOR shall represent the terms of payment with respect to each individual shipment and shall be of the essence of this contract. The amount and terms of credit extended by COMPANY to DISTRIBUTOR shall be in the sole discretion of COMPANY.

8. DISTRIBUTOR will not resell any of COMPANY'S PRODUCTS at less than the minimum wholesale prices prescribed by law or regulation, and will file such minimum resale prices as are prescribed by COMPANY; provided, however, that when applicable law prevails or otherwise modifies such provision, applicable law shall control and DISTRIBUTOR shall not be required to carry out any policies that involve discriminatory prices, discounts, rebates, free goods or any violation of federal, state or local laws or regulations.

9. All of COMPANY'S PRODUCTS sold and distributed under this contract shall be bottled, packaged and labeled in conformity with applicable federal, state and local laws, rules and regulations, shall be sound and merchantable, and shall meet all standards of quality imposed by federal law and the laws of the state wherein the products are to be distributed.

10. In the event of damage to any of COMPANY'S PRODUCTS rendering the contents unfit for consumption or the containers unsightly or otherwise not of first-class appearance, DISTRIBUTOR shall not sell or permit the same to become the property of any insurer or carrier, nor otherwise dispose thereof except in accordance with prior written instructions of COMPANY.

11. Either party may cancel this contract FOR CAUSE upon any of the following grounds:

(a) The appointment of a trustee, receiver or other similar custodian for all or any part of the other party's property.

(b) Insolvency of the other party.

(c) The filing of a petition by the other party or an answer, not denying jurisdiction, in bankruptcy or under Chapter X or XI of the Federal Bankruptcy Act or similar law, state or federal, whether now or hereafter existing, or if such a petition is filed against the other party and not vacated or stayed within fifteen (15) days.

(d) The making by the other party of an assignment for the benefit of creditors.

(e) An attachment of the other party's property or any part thereof or the filing of any like process against it which is not discharged within thirty (30) days.

(f) The rendition of a judgment against the other party which remains unsatisfied or un superseded for thirty (30) days.

(g) The loss by the other party of any federal, state or local license required for the carrying out of the provisions of this agreement, whether lost through revocation, failure to renew, or suspension of thirty (30) days or more.

(h) Sale or transfer by the other party of its physical assets, a majority of its stock or ownership, or control of the business. "Control" shall be defined as those persons who have the legal ability to elect or name the executive management of the DISTRIBUTOR organization. This clause shall be applicable to any installment sales by contract (or otherwise), whether express or implied.

(i) The enactment of a law making the sale of the products covered by this agreement illegal in DISTRIBUTOR'S territory.

(j) The failure by either party to materially satisfy any of the terms, conditions, or agreements contained herein.

In the event of cancellation for cause, such cancellation shall become immediately effective, and DISTRIBUTOR shall have no rights for any recovery for any voluntary cooperative advertising or otherwise, and COMPANY shall have the immediate right to pick up all COMPANY'S PRODUCTS in the hands of DISTRIBUTOR at laid-in cost to DISTRIBUTOR, in COMPANY'S sole discretion, to ship or to require DISTRIBUTOR to ship said goods, f.o.b. DISTRIBUTOR'S place of business or other designated point.

12. (a) This contract may be cancelled by either party WITHOUT CAUSE upon ninety (90) days' written notice; provided, however, that when a longer time is required by state or local law, the provision of the state or local law regarding time of notice shall prevail. Orders during the ninety-day (90) period shall be limited to only what is reasonably necessary to service existing customers. (b) In the event this contract is cancelled by COMPANY without cause, COMPANY will, if requested by DISTRIBUTOR, pick up all merchandise at delivered cost, less state tax, at the end of such ninety-day (90) period. If during such ninety-day (90) period, in the opinion of COMPANY, COMPANY'S PRODUCTS are not properly merchandised or handled by DISTRIBUTOR, COMPANY shall have the right to immediate possession of all such products. Any goods picked up by COMPANY from DISTRIBUTOR upon termination of this contract by COMPANY under this section shall be at laid-in cost, less state tax, to DISTRIBUTOR, plus any non-refundable gallonage taxes on the goods paid by DISTRIBUTOR, and the DISTRIBUTOR will ship the same at the direction of COMPANY, f.o.b. DISTRIBUTOR'S place of business or such other point as may be designated by COMPANY. Nothing herein contained shall be construed as being in bad faith because

COMPANY elects to exercise the provisions of this clause.

13. In the event of cancellation of this agreement by COMPANY as provided in Paragraph 12:

(a) If there has been any voluntary cooperative advertising by DISTRIBUTOR with the written approval of COMPANY, all advertising dollars so spent by DISTRIBUTOR for the twelve (12) months next preceding the date of notice of cancellation shall be refunded to DISTRIBUTOR by COMPANY. Such payment by COMPANY to DISTRIBUTOR shall be in full and complete discharge of any and all rights of each party against the other for any claims arising out of such voluntary cooperative advertising.

(b) When cancellation occurs COMPANY will pay to DISTRIBUTOR an amount equal to one and one-half percent (1-1/2%) of DISTRIBUTOR'S purchases of each of COMPANY'S PRODUCTS less federal excise tax, Customs duty, and state tax during the two (2) years next preceding the effective date of cancellation.

(c) The amounts to be paid under paragraph (b) above shall be computed upon COMPANY'S invoice prices less federal excise tax, Customs duty, and state tax. COMPANY'S PRODUCTS in the hands of DISTRIBUTOR on the effective date of cancellation shall not be used in computing the amount to be paid under paragraph (b) above.

(d) The payments provided for in paragraph (b) above shall be in full and complete discharge of any and all claims, whether statutory or otherwise, of DISTRIBUTOR against COMPANY for cancellation of this contract by COMPANY.

14. All advertising of COMPANY'S PRODUCTS shall be under the supervision and direction of COMPANY, and no advertising shall be conducted by DISTRIBUTOR except with the written approval of COMPANY. Further, DISTRIBUTOR will not sell or otherwise do business under any name or designation containing a trade name or trademark associated with any of COMPANY'S PRODUCTS without COMPANY'S prior written permission.

15. DISTRIBUTOR will promptly notify the COMPANY in writing of any instance of infringement, misuse, or other abuse of the trademarks of the COMPANY'S PRODUCTS, which may come to the notice of DISTRIBUTOR.

16. This agreement is personal in nature and unless it is otherwise agreed in writing, this contract shall not be assignable.

17. This agreement supplants and supersedes any and all oral or written arrangements or agreements, and includes the full understanding between the parties, and can be changed only by written agreement signed by a corporate officer, partner or the owner of each of the parties.

18. All notices and other communications pursuant to or relating to any of the subject matter of this agreement shall be in writing and shall be sent by certified or

registered mail to the other party at the following address:

If to COMPANY, at P.O. [REDACTED]

If to DISTRIBUTOR, at [REDACTED]

The effective date of all notices given hereunder shall be measured from the date of mailing such notice.

19. This contract shall be construed according to the laws of [REDACTED] except where the context hereof requires other construction.

20. The parties acknowledge that, at the date hereof, neither has any claims for damages, reimbursement of expenses, contractual breaches, nor any claim of any other kind or nature, except for merchandise purchased by DISTRIBUTOR from COMPANY and not yet paid for, and in consideration of the other entering into this agreement any and all such claims, if the same exist, except for merchandise, are hereby fully and forever discharged and released.

21. All the terms and conditions of this contract are continuing ones, and the failure of either party to insist upon full compliance with any provision shall not be construed as a waiver of the party's rights under that provision, nor shall the same affect any other provision of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed in duplicate the day and date first above written.

[REDACTED]

[REDACTED]

By: _____

Title: _____

[REDACTED]

By: _____

Title: _____

[REDACTED]

[REDACTED]

DISTRIBUTOR AGREEMENT

THIS AGREEMENT is entered into effective this first day of [REDACTED], by and between [REDACTED] and [REDACTED], (herein after referred to as "Distributor") having its principal place of business at [REDACTED].

W I T N E S S E T H:

WHEREAS, [REDACTED] is engaged in the importation, distribution and sale of alcoholic beverages and desires to appoint Distributor as one of its wholesale distributors with principal responsibility in the areas set forth in Exhibit A; and certain products enumerated in this Agreement; and

WHEREAS, Distributor warrants it is a licensed wholesaler of wines possessing the necessary local, state and federal licenses or permits authorizing it to sell wines within the areas set forth in Exhibit A; and

NOW THEREFORE, for and in consideration of the agreements and mutual covenants contained in this Agreement, the sufficiency of which is acknowledged by each of the parties, [REDACTED] and Distributor agree as follows:

1. Appointment

[REDACTED] hereby appoints Distributor on a twelve (12) month basis as one of its wholesale distributors of the brands and or products set forth in Exhibit A upon the terms and conditions set forth in this Agreement, Distributor hereby accepts such appointment upon the same terms and conditions. The [REDACTED] may also in its sole discretion add other distributors to distribute these Brands within the area of principal responsibility.

2. Extensions and Reductions

[REDACTED] may, from time to time, within each of its Brands, add items for sale within the area of principal responsibility (defined below). Distributor agrees to accept these items and provide his complete sales effort behind all product line extensions. Additionally, Distributor agrees to accept any reduction in the product line of Brand The Wine Group offers.

3. Allocations of Wines

In the event there is an insufficient quantity of wine to fill distributor orders, ██████████ may allocate such portion of its available wines as it shall determine in its sole discretion.

4. Area of Principal Responsibility

Distributor's primary responsibility under this Agreement shall be to devote its best efforts to sell and distribute ██████████ Brand to all retail licensees in the Area of Principal Responsibility described in Exhibit A. The parties understand that this Agreement does not place a territorial or customer restriction upon Distributor's sale of ██████████ Brand except when state or local law so requires, and that the designation of the Principal Area of Responsibility is solely for the purpose of judging Distributor's performance under this Agreement, which performance is of the essence of this Agreement.

5. Terms of Sales

(a) Distributor shall place all orders for ██████████ Brands with ██████████ in the manner and by the use of forms and procedures ██████████ shall from time to time publish and transmit to Distributor.

(b) Distributor's orders are subject to acceptance by ██████████ at its office in ██████████, or such other office as ██████████ shall designate. ██████████ shall use its best efforts to ship all orders within a commercially reasonable time, but shall not be liable to Distributor for any loss or damage arising out of any delay or default in shipment or delivery.

(c) (1) Distributor agrees to pay ██████████ for wine shipped at the price stipulated on each invoice, plus any freight, taxes or other charges paid thereon by ██████████; such sums being due and payable thirty (30) days from date of shipment, subject, however, to the provisions of this paragraph 5 (c) (3) below.

(2) ██████████ shall have the right, at any time to adjust the price of any of its wines, effective immediately.

(3) ██████████ shall, from time to time, and in its sole discretion, set forth credit limits applicable to Distributor's purchases from ██████████. If, in ██████████ judgement, Distributor should not be granted credit, due to arrearages in its payments to ██████████ or for any other reason, ██████████ shall have the right to reduce Distributor's credit limit or to sell to Distributor on a payment before delivery basis only. Distributor agrees to periodically provide ██████████ with current Profit and Loss Statements and Balance Sheets.

(d) ██████████ will ship all products to Distributor at Distributor's principal executive offices designated on page 1 of this Agreement, or such other location within the Area of Principal Responsibility as Distributor may designate in writing.

6. Performance Standards

(a) Distributor agrees:

(1) Pursuant to the attached Exhibit C, "Objectives and Standards", to sell ██████████ Brands only to licensed retail accounts in the distributor's Area of Principal Responsibility in an aggressive, effective and diligent manner, to develop maximum volume of sales of ██████████ Brands, to work diligently to establish and maintain maximum distribution of said wines, including all sizes and items, in the maximum number of retail outlets, to have its sales personnel personally contact all retailers in the Area of Principal Responsibility at reasonable intervals to promote and sell ██████████ Brands and to secure competitive shelf-facings and displays.

(2) To maintain adequate and trained sales management and an adequate and trained sales force to represent [REDACTED] effectively and to promote the sale of [REDACTED] Brands within Distributor's Area of Principal Responsibility.

(3) To cooperate with [REDACTED] in its sales, promotional, marketing and merchandising programs for [REDACTED] Brands in Distributor's Area of Principal Responsibility.

(4) To maintain adequate inventory levels at least sufficient to cover the ensuing thirty (30) days anticipated sales under proper storage conditions.

(5) To furnish [REDACTED] records and reports of Distributor's activities concerning [REDACTED] Brands, including, but not limited to periodic sales and distribution objectives, sales, marketing and management plans for achieving these objectives, periodic inventories and market evaluations.

(6) To report, at reasonable intervals which [REDACTED] prescribes, market trends and competitive activities in Distributor's Area of Principal Responsibility, and to develop plans to maintain and improve the competitive position of [REDACTED] Brands in such area.

(7) To observe all applicable laws and regulations governing Distributor's activities concerning the sale, distribution or handling of [REDACTED] Brands. Distributor agrees to indemnify [REDACTED] and hold [REDACTED] harmless from and against any loss, damage, liability, claim or expense (including, but not limited to, any and all reasonable legal and other expenses reasonably incurred in connection with any proceeding commenced or threatened or any claim whatsoever, whether or not resulting in any liability) which arises out of, or is based upon, a breach of this Section 6 (a) (6) provided, however, that nothing in this subparagraph 6 (a) (6) shall be construed as requiring Distributor to indemnify [REDACTED] against any claims based on alleged violations by [REDACTED] of any of its legal obligations.

(8) To maintain such warehousing standards as [REDACTED] may from time to time establish, including temperature and stock rotation guidelines relevant to [REDACTED] Brands' shelf-life.

(9) To fulfill Distributor's objectives and standards for achieving maximum distribution of all [REDACTED] Brands and supporting [REDACTED] marketing programs.

(10) To identify itself as a Distributor of [REDACTED] Brands for the duration of this Agreement only, on stationery, advertising and promotional materials, subject to such guidelines as [REDACTED] may provide from time to time. Distributor shall not use any of [REDACTED] names, trade names or trademarks as the name or part of the name of Distributor's business. [REDACTED] authorization under this Section 6 (a) (10) shall cease following the termination of this Agreement.

(b) [REDACTED] and Distributor both agree:

(1) That [REDACTED] selection of Distributor is based upon Distributor's continuing representation that Distributor possesses the necessary assets, personnel and management skills effectively to sell, distribute and handle [REDACTED] Brands in Distributor's Area of Principal Responsibility.

(2) To the minimum purchase requirements set forth in Exhibit B to this Agreement.

(3) To engage jointly in periodic review, evaluation and appraisal of Distributor's performance.

7. Term of Agreement

This Agreement shall automatically expire on [REDACTED]. If as of [REDACTED], Distributor has satisfactorily performed its obligations hereunder and met or exceeded Distributor's objectives and standards, [REDACTED] will offer Distributor a Standard Form Agreement commencing at the expiration of this Agreement.

Absent of a written Agreement, [REDACTED] acceptance of any orders after [REDACTED], shall not be deemed an extension of this Agreement.

8. Termination

Distributor acknowledges that any funds it expends, or expenses it incurs, for advertising, promotion, facilities, vehicles or other items relating to the sale or distribution of [REDACTED] Brands pursuant to this Agreement are expended or incurred with the understanding that this Agreement may at some time be terminated. If this Agreement either expires or is terminated by [REDACTED] as specified in this Agreement, Distributor shall be entitled only to the amount of damages, if any, specified in Section 9 of this Agreement, and Distributor releases [REDACTED] from, and waives any and all claims and liabilities for the payment of, any other amounts of any kind whatsoever, including, but not limited to, any claims for then past performance under this Agreement and any claims relating to, or arising out of, Distributor's expected future performance under this Agreement. Any termination of this Agreement by [REDACTED] under subsection (a) or (b) of this Section 8 shall constitute a termination by [REDACTED] for good cause for purposes of any applicable state law, rule or regulation pertaining to the termination of this commercial relationship.

(a) Either party may terminate this Agreement, by written notice to the other party, effective thirty (30) days after delivery, for any of the following reasons:

(1) Insolvency of the other party; the filing of a voluntary petition in bankruptcy, reorganization or a similar proceeding by the other party; the filing by the other party of an involuntary petition in bankruptcy provided such petition is not vacated within thirty (30) days from the date of filing; the appointment of a receiver or trustee for all or a substantial part of the other party's property, provided such appointment is not vacated within thirty (30) days from the date of such appointment; or execution by the other party of an assignment for the benefit of creditors;

(2) The suspension of business, liquidation, dissolution or termination of the existence of the other party; the condemnation, attachment or appropriation of all or a material portion of the property of the other party;

(3) The rendition of a judgement against the other party that remains unsatisfied and subject to execution for thirty (30) days or more provided such judgment is substantial in relation to the other party's assets or may materially affect the other party's performance under this Agreement;

(4) Any attempted sale, transfer or assignment of this Agreement or of any of the rights or obligations assumed hereunder, because the parties recognize said obligations are personal and not assignable without the prior written consent of the party;

(5) A default by the other party in the payment of any monies due to the party seeking to terminate this Agreement which is not cured within ten (10) days of receipt of written notice;

(6) The issuance of a voluntary or involuntary lien or of an attachment against any property of the other party which remains in effect for more than sixty (60) days;

(7) The discovery by the party seeking to terminate this Agreement that the other party to the Agreement made any false material representation;

(8) The failure of the other party to maintain, at all times, all licenses, permits, approvals and consents necessary for the performance of its obligations hereunder, irrespective of the cause or reason for such failure; except that suspensions of licenses or permits for a period of less than fifteen (15) days shall not be construed as a failure for the purpose of this paragraph;

(9) The failure of the other party to perform any of its material obligations under this Agreement (including, but not limited to, Distributor's obligations and undertakings stated in Subsection 6 (a) if such failure is not rectified within sixty (60) days after written notices given by the party seeking to terminate this Agreement;

(b) [REDACTED] may terminate this Agreement upon ten (10) days written notice to Distributor if:

(1) There occurs any change in Distributor's ownership, control or active senior management or a sale, merger, acquisition, spin-off, or otherwise, of Distributor that in [REDACTED] opinion has an adverse effect on Distributor's ability effectively to perform its obligations required under this Agreement.

For purposes of this Section 8 (b) (1), the transfer of more than ten percent (10%) of the voting stock of, or other ownership interest in, Distributor or any corporation, partnership or joint venture which owns fifty-one percent (51%) of the voting stock of, or other ownership interest in, Distributor is a change in ownership or control deemed to have an adverse effect.

(2) [REDACTED] withdraws its wines from sale in Distributor's Area of Principal Responsibility.

(3) Distributor engages in any practice with respect to [REDACTED] Brands which is determined to be an illegal or unfair trade practice in violation of federal or state law, or in the opinion of [REDACTED] legal counsel is an illegal or unfair trade practice in violation of federal or state law.

(c) The Parties agree that Distributor may terminate this Agreement on ninety (90) days notice to [REDACTED] for any reason whatsoever with no further obligations hereunder other than the obligations, if any, specified in Sections 9 and 10 below.

9. Liquidated Damages

It is the express intention of the parties that each party has the right to terminate this Agreement, for the reasons stated herein, without incurring any liability whatsoever to the other party. It is also the express intention of the parties that any termination by [REDACTED] pursuant to Section 8 (a) and 8 (b) shall be deemed termination for good cause, as that term is used in any applicable law governing the termination of wholesale distribution relationships, and that [REDACTED] shall not be liable to Distributor for damages for any such termination.

It is also the intention of the parties to comply with all applicable laws and regulations governing their relationship. In the event any such applicable law or regulation shall be construed to require payment for any damages incurred by Distributor as a result of [REDACTED] breach of this Agreement, or termination of this Agreement in accordance with its terms, or there shall, for any other reason, be a finding that [REDACTED] is liable to Distributor for damages resulting from [REDACTED] breach or termination of this Agreement, the parties agree that the damages outlined below shall be the only damages to which Distributor shall be entitled.

The parties acknowledge that because of the uncertainties inherent in the market for [REDACTED] wines, the tastes of the consuming public, Distributor's profit margins, the valuation of good will, if any, and certain other factors, it would be virtually impossible to fix the actual damages, if any, to Distributor that would result from [REDACTED] breach or termination of this Agreement in whole or in part. The parties further acknowledge that the liquidated damages, calculated as set forth below, constitute reasonable, fair and equitable compensation to Distributor for damages, if any, that Distributor may incur as a result of [REDACTED] breach or termination of this Agreement, particularly because Distributor is free to and does distribute the products of suppliers other than [REDACTED].

The parties further agree that all sums [REDACTED] tenders under this Section shall constitute the payment of valid and complete liquidated damages to Distributor and shall be in satisfaction of any other claimed amounts and in payment and settlement of all claims and liabilities which Distributor may have against [REDACTED] in connection with, or as a result of, any such breach or termination, including any and all claims for incidental or consequential damages. The parties further acknowledge and agree that such liquidated damages do not constitute a penalty. The amount of the liquidated damages to be paid shall be twenty-five cents (\$.25) for each case of [REDACTED] Brands Distributor sold during the twelve (12) month period preceding notice of termination.

10. Events Following Expiration or Termination

(a) Except as provided in Subsection (b) of this Section 10, upon expiration or any termination of this Agreement, all Distributor's outstanding and unshipped orders for [REDACTED] wines shall be deemed cancelled without liability on the part of either party.

(b) Upon expiration or any termination by [REDACTED] pursuant to Section 8 (a), [REDACTED] shall honor those of Distributor's outstanding and unshipped orders required to supply Distributor's historical requirements during the thirty (30) day period between delivery of the notice of termination and its effective date on a case-on-delivery basis, provided Distributor first pays [REDACTED] in full for all outstanding invoices.

(c) Upon expiration of any termination, [REDACTED] shall have the option, within thirty (30) days after the effective date of such expiration or termination, to buy Distributor's inventory of [REDACTED] Brands, provided said wines are in good and saleable condition, at Distributor's laid-in cost, plus reasonable warehousing charges and handling costs incurred by Distributor relating to such repurchase. [REDACTED] may, however, offset all sums Distributor owes to [REDACTED] against the cost of such inventory, warehousing charges and handling costs.

(d) Upon any termination, Distributor shall release and promptly deliver to [REDACTED] all signs, displays, cards and other advertising and promotional material bearing [REDACTED] Brand names then in Distributor's possession which [REDACTED] had supplied to Distributor without charge. Distributor also agrees to remove within thirty (30) days, [REDACTED] Brand Names, trademarks, labels or other [REDACTED] insignia from Distributor's stationery and other property. Distributor shall refrain, and shall cause its employees to refrain from removing, defacing or tampering with any of [REDACTED] advertising or promotional material on any retail premises or elsewhere and from making disparaging remarks about [REDACTED] its employees or [REDACTED] Brands.

(e) Both parties warrant and covenant that after delivery of any notice of termination, as provided in this Agreement, by either party, neither party will take any action to impair or diminish the good will or business of the other party.

11. Claims, Damages and Waiver

Distributor agrees to give written notice to [REDACTED] no later than the anniversary date of this Agreement, of any and all allegations, complaints or claims Distributor may have against [REDACTED], including claims for indemnification for damages, reimbursement of expenses, breach of contract or violations of law. Distributor further agrees that failure to notify [REDACTED] of any such claims in accordance with the terms of this Agreement shall be a full and complete waiver of any such claims and shall forever discharge and release [REDACTED] from liability for such claims.

12. Warranties

[REDACTED] represents and warrants that it shall produce, bottle, package and label all Products it sells to Distributor in conformity with applicable laws and regulations.

During the term of this Agreement, [REDACTED] shall maintain in full force and effect, general liability insurance with product hazard coverage for the sale, distribution and handling of [REDACTED] Brands by Distributor in Distributor's Area of Principal Responsibility.

Unless [REDACTED] specifically directs the recall of a particular [REDACTED] product type, it is the Distributors obligation to insure all [REDACTED] products are saleable and to remove all unmerchandise products from Distributors and Retailers inventory, and destroy the unmerchandise items. [REDACTED] will have no financial responsibility for those items.

13. Force Majeure

If either party is prevented from performing any of its obligations under this Agreement, except an obligation requiring the payment of wines, because of an event beyond its reasonable control, such as but not limited to, a strike, act of God, fire, flood, war, insurrection, riot, plant breakdown, embargo, explosion, lack of material suppliers, lack of common carrier facilities, shortages of [REDACTED] wines or government order or decree, the affected party shall be excused from performance for the duration of the event.

14. Notices

All notices required under this Agreement shall be in writing, forwarded by certified or registered mail, return receipt request, and shall be effective as of the date on which stamped and deposited in the United States mail addressed to the parties at the addresses set forth in the preamble hereto or to any other address either party may from time to time designate in writing as an address for the purpose of notice.

15. Severability

This Agreement is intended for general use in the United States and in the event any term or provision hereof is in violation of, or prohibited by, any applicable law or regulation, including laws or regulations promulgated by a particular state, such term or provision shall be deemed to be amended or deleted to conform to such law or regulation without invalidating or amending or deleting any other term or provision of this Agreement, although [REDACTED] reserves the right to challenge any such discrepancies in local law.

16. Governing Law

This Agreement is to be governed and construed in accordance with laws of the States [REDACTED] provided, however, that it is subject to the Federal Alcohol Administration Act and all regulations promulgated pursuant to such Act. Any disputes or controversies arising in

connection herewith, other than for non-payment of goods sold and delivered, shall be resolved under [REDACTED] law in a court of competent jurisdiction located in the City and County of [REDACTED] to which jurisdiction the parties hereto submit. [REDACTED] shall have the option of initiating local litigation, if necessary, for non-payment of goods sold and delivered.

17. Waiver

The failure or omission by either party to insist upon or enforce any of the terms of this Agreement shall not be deemed a waiver of such term unless the waiver is in writing and signed by the party against whom such waiver is sought to be enforced. Waiver of any one term shall not be deemed a waiver of any other term. Waiver of any one term on any one occasion shall not be deemed a waiver of the same term on any other occasion.

18. Adherence to Laws

(a) Distributor understands and acknowledges that it is [REDACTED] policy to comply with all federal, state and local laws, rules and regulations governing this Agreement and the performance of the obligations of the parties under this Agreement. Distributor further acknowledges that it is a violation of this policy for a [REDACTED] agent or sales representative to dictate a resale price, or to force adherence to suggested participation in sales promotions or suggested resale prices. Distributor further acknowledges that no [REDACTED] employee or representative has the power or authority to act contrary to this policy on applicable local regulations, that any action contrary to this policy on applicable laws/regulations by any such [REDACTED] employee shall not bind [REDACTED] or Distributor, and that Distributor shall immediately notify [REDACTED] in writing of any [REDACTED] employee's or representative's act or attempted act Distributor suspects, or has reason to believe, is a violation of this policy. [REDACTED] periodically supports the promotion of its brands, where legal, through temporary reductions in the brands selling price to distributors. No employee or representative of [REDACTED] has the power or authority to engage in or commit to any other type of brand promotional activity. It is the responsibility of the Distributor to notify [REDACTED] in writing if a [REDACTED] employee or representative offers or suggests any other type of brand promotional activity.

(b) Nothing herein shall be construed to permit or require either party to do any act or thing in contravention of any law or regulation of the United States or of any agency or instrumentality of the United States or of any state or states in which Distributor distributes [REDACTED] Brands pursuant to this Agreement. [REDACTED] and Distributor mutually agree to do all things reasonably necessary in order to enable both or either of them to comply with all such laws and regulations.

19. Entire Agreement

This Agreement constitutes the entire Agreement between the parties, supersedes all prior oral and written agreements and understandings between the parties, and can be changed or modified only by subsequent written amendment executed by Distributor's and [REDACTED] authorized representatives. The parties hereto agree and acknowledge that they have negotiated each of the provisions contained herein, including termination provisions in good faith and at arms-length and have entered into this Agreement as a free and voluntary act.

20. Nature of Agreement

This Agreement shall not be construed in any way to deem Distributor a [REDACTED] agent or franchisee for any purpose whatsoever. The parties acknowledge that their relationship under this Agreement is a relationship of supplier and wholesaler and not a relationship of principal and agent or of franchisor and franchisee. Neither party is granted any right or authority to act or hold itself out as the legal agent of the other party, or to assume or create any obligations or responsibility, express or implied, on behalf of, or in the name of, the other party or any company affiliated with the other party, or to bind the other party in any manner whatsoever.

21. Binding Agreement

This Agreement shall be binding upon the parties hereto and their successors.

22. Effective Date

This Agreement shall not be effective until it is accepted by [REDACTED] and shall be deemed dated as of the date of such acceptance.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed as of the date and year first above written. BOTH PARTIES AGREE THAT THEY HAVE READ ALL OF THE FOREGOING, UNDERSTAND THIS AGREEMENT AND INTEND TO BE BOUND THEREBY.

[REDACTED]
By: [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
By: [REDACTED]
[REDACTED]
[REDACTED]

EXHIBIT A

TWG (SELLER) AND FUN BEVERAGE (BUYER)

AREAS OF PRINCIPAL RESPONSIBILITY.

Counties:

[REDACTED]

Brand Wines

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

EXHIBIT B

DISTRIBUTORSHIP AGREEMENT

[REDACTED] (SELLER) AND [REDACTED] (BUYER) MINIMUM PURCHASE QUOTA:

[REDACTED] THROUGH [REDACTED]

	<u>First Six Months</u>	<u>Second Six Months</u>	<u>[REDACTED] Total</u>
<u>[REDACTED] Wines</u>			
Table Wines Glass	650	650	1,300
Table Winetap	350	300	650
International Style & Sparkling	150	200	350
[REDACTED] Wines	750	1,050	1,800

If purchases for the first six months are 20% behind quota on any brand, an agreed to corrective plan will be implemented by the Distributor for the agreement to remain in effect.

EXHIBIT NO. 20DATE 3/8/91BILL NO. 4816

A fair dealing law is not a set of handcuffs linking the winery to its present wine distributors forever. The New Mexico law requires both good cause and good faith before a distributor can be cancelled by a winery. Here is what a court said about a particular cancellation under that law: [Where the distributor]

consistently failed to meet sales expectations, followed a market philosophy contrary to that of Glenmore, failed to take sufficient steps as promised, to improve its performance, and in Glenmore's business judgment failed to adequately represent its product in New Mexico,

the supplier had more than enough good cause to cancel the distributor under the New Mexico law.

State Distributors, Inc. v. Glenmore Distillers,

738 F.2d 405, 413 (10 Cir. 1984)

Amendments to House Bill No. 76
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 6, 1991

1. Page 2, line 11.
Strike: "essential and"
2. Page 2, lines 13 through 16.
Strike: "if" on line 13 through "supplier" on line 16
3. Page 4, line 19.
Strike: "(1)"
Insert: "(2)"
4. Page 4, lines 22 and 23.
Strike: "measured" on line 22 through "business" on line 23
Following: "as"
Insert: "may be"
5. Page 4, line 23.
Following: "provided"
Strike: "for"
6. Page 6, lines 13 through 17.
Strike: "If" on line 13 through "distributor." on line 17

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/8/91 Bill No. HB 479 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: BE CONCURRED IN.

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/8/91

BILL NO. H3816

November 27, 1990

Joseph C./Violet W.
Schrage
6310 E. Side Hwy.
Florence, MT 59833

John K.

Mr. Hanson, President
Winnebago Industries Inc.
P.O. Box 152
Forest City, Iowa 50436

Dear Mr. Hanson,

In March of this year, 1990, we traded our 1976 Winnebago 26' (bought second hand with 16,000 miles on it, 66,000 when we traded it) in on a 1990 Chieftan, 31' PT Winnebago. I am writing to you because I am vexed, angry and down right mad at the way this motor home came to us from the factory.

I understand you are called Mr. Winnebago because you started the firm and also have been told you have had to take the reins back again just this past year. Well, I certainly hope you can make the company run better again.

We bought Winnebago because we were very well satisfied with our old one. We bragged on the quality to everybody. We had hoped to get the same on this new one. No way.... let me tell you how bad it is.

I am not a college graduate or an engineer with all those degrees, but I think I could sure do much better on some of the things in this "tin Lizzy" we have been taken with. I'll start from the bedroom and work out.

I like the idea of the twin beds lifting with the shock absorber, great idea, but would you look at the little boards that hold the bed together - stapled, and to which the absorber pushes against? Just how long will that hold up? The MH is 8 months old and already the staples have pulled out. That cute little head board for the beds is nice, but ask your wife about bedding on the beds. She would know you put a mattress cover, sheets, blanket and that cute little "slick" bedspread on the bed. Then, you can't get the beds up, they hit the headboard. Yes, our dealer, Rangitsch Bros. in Missoula fixed it for us. They moved the beds down. The form that the mattress is in, just fits the mattress. How are you to put your bedding over the mattress and have it fit back in that form? You don't. A man must have done that little job--a woman would have known better.

The slick little bedspread that everything slides off of, is color coordinated nicely with the curtains, etc., but they have to be dry cleaned. Now I ask you, when travelling around, where do you stay long enough to get something dry cleaned? Not practical in my book. Must have been a man again. Something you can wash as it gets dirty seems more appropriate. Besides, those little "curtain" boxes around the window are just in the right place to hit your back or your shoulder, depending on where you are in the bed at the time. I have the feeling I have to lay towards the outside of my bed in order not to hit them at night when I turn over. Also those covers must have to be taken off once in a while to wash. Dry clean? Besides, they are nailed to the wall. If I do get them off, I'll bet you ten to one they are glued to that little board.

Those elongated handles to open the windows are another thing. How long do you think the strips on those curtain boxes will stay clean when you have to rub against them each time you open the window? Already the one in our bedroom is getting dirty and then how can I clean them? Nailed on and glued to the board... We plan on putting a plastic 4" circle around the back of each knob, in order to keep them from getting dirty. Must have been

a man again. Any woman knows you will always have a dirty spot there and therefore need to clean it. Out in the front part, as you let the blinds down, they hit on these little window opening rods on the way down and then stop. Try and get them to finish going down again. The one by the davenport just wouldn't come down without a few cuss words. I finally take it manually from the bottom and pull on it as we let the cord down. Very tempermental, they all are. The one by the door over the chair, the little curtain box is built right over both ends so you have to fight to let the blind down and also to open or close the blades. We finally gave up and leave it down all of the time.

Let me tell you about the front curtains. The book says to expect 5% shrinkage. First trip out to a little town only about 40 miles from home. I'm a musician so we got the basement model just for me. A nice place to put my accordian, keyboard, speakers, violin and books. We used the bigger one towards the back. The information says they are sealed. So much for that problem now. We parked in the local city park. No water or electricity. Come night, I went to pull those front curtains. They would not close enough to fit. Well, There's another way to skin a cat, I will close the curtains behind the seats. One of them would come closed only 6 inches from the wall because the track had been put up with the screws at an angle so when you pulled the curtain, the hangers would catch on the screw heads. I would like to meet the worker that put that in. Poor workmanship.... I talked with our dealer and salesman. I was told the COMPUTER has it figured with eight inches to spare. Then take your computer out and let it try and keep those curtains closed! I took Tony, the manager out and showed him what I was talking about. He took the screws from the end and brought the curtain closer to the center. With them adding velcro strips, we now can force the curtains closed. 5% shrinkage? Then what am I going to do? I don't like the velcro because I think just a bit more on the material would suffice, but then I'm not thinking cost effect am I? Cost too much to add six inches of material on those curtains? I wonder. Yes, they got a new track for us and put it in. Just as bad or worse than the factory. I think the next time, we'll order the part and put it in ourselves. At least we'll start at the center and work out instead of the other way it seems they have done.

I like the pleated shades in the bedroom. Color coordinated and all. They stay just where you put them. I like that. Only trouble is, poor workmanship again. I pulled one down when we were at a state Good Sam Samboree at Butte, Montana. It came right down in my hand. Joe, my husband, had to wire it up until we got home to find out how to fix them. It pulled out from the top. Somebody didn't do their job again.

The T.V. plug in for the bedroom is just hanging on the wall. The electrical box is not fastened to a stud, it's just hung on the paneling. How long do you think that will last before the paneling starts cracking?

The shower works fine. I like that. My only worry and it is a real worry, is that the shower floor isn't braced enough and it may crack some day. Yes, we've talked with several other people all ready that the little bath tub has cracked. There is an air space between the insulation that was placed under the tub and the floor. You know we didn't buy this MH just for a year or two. \$68,700.00 is a lot of money in our book, maybe not in yours, so we intend to live in this MH for quite some time. We can't afford to buy a new one every two or three years like you do a car. We had hoped this one would last us for quite a while.

The shower door drips the complete length of it when you open it after a shower. Now maybe one of your engineers can think of a way to stop that. I know we can just put a towel down, but is that really necessary? Must be some way that could be prevented. I like the little skylight in the shower. Gives you enough light to shower by.

The toilet is another story. You go in and sit on the throne and try to get up without knocking the towel rack off. What a place to put it. I know there's not much room in there but after knocking ours off so many times, Joe finally looked into why it would come off in the first place. The screw that holds this Taiwan made piece of stuff in place, was put in crooked and broke off. Another shoddy workman at work. Made in Taiwan, why can't you buy American? Cost effective again I suppose. I know you have these M's on an assembly line, but then slow that sucker down so they can get their work done right for the quality that Winnebago used to be known for. I like the double doors in the bathroom. One that folds out from the kitchen side. I'd like to meet that workman, again, too. The clip or lock that holds it in place at the top, was up $\frac{1}{4}$ " too high and you had to take the door, physically, pull it down to get past the lock and let it back up to open. Of course, reverse when closing.... Also the little twist lock on the side facing the kitchen, - any one knows when you have a twist lock, the plunger goes clockwise to close. Not on my MH, it's the opposite, counterclockwise. Even me, a woman, knows that much. Put in backwards?

I like the china toilet bowl, but Joe doesn't. It's shaped too flat and each time he sits down for his business, he gets the floor wet unless he takes unusual precautions. He thought he was wetting on the floor all the time. He would clean it up because he knew I would get on his case. Well, we took a trip out to Seattle to where our daughter lives. We had that same trouble again and Joe was really mad with himself. He wiped up the wet spot and off to the zoo with the daughter and granddaughter we went for the day. When we got home, yes sir, that wet spot was still there. Then we knew. It wasn't Joe, something else must be wrong. We took it back to the dealer and the seal at the bottom of the toilet was the wrong one. Put in wrong from the factory. Why wasn't this noticed? Quality control? I wonder. Now that they have fixed that part, it's leaking somewhere else, we can't find. At least it's not on the carpet!

Of course after that the rug needed to be cleaned and I guess it was. We now have a permanent mark around the stool. I've tried to clean it to no avail. Also the spot on the floor where the dealer said has been cleaned, seems to be there still showing dirt. We cover it up with a rug. All this for a new machine? I don't think so. Makes me mad. I don't like cover-ups. I bought a new MH, I would like to keep it that way for a while at least. I know I'm not the best of housekeeper, but I sure try to keep it looking new as long as possible.

The control panel board acts up. We seem to always have a full sewer tank. We know we don't as we've just dumped the tank but the control panel tells us it's full. The dealer told us the way your ENGINEERS have designed the system, toilet paper falls down on the sensors and they react of course, telling us the tank is full. So we know different, that doesn't help when you've been on the road for days and don't know if it's full for sure or not. The old '76 didn't give us a bit of trouble that way. If we didn't have so much money wrapped up in this tin Lizzy, I'd take my old one back. In fact, I told the dealer as much. Joe said that if you wouldn't put the sensors all in a straight row up and down, stagger them so the paper won't hit them would help. The sewer from the toilet to the tank is offset so the sewerage is put against the tank right on the sensors.

This '90 MH was a factory demo for the Arizona show. We had a deadline to buy it and get the 9.9 interest rate. We like that. We bought it sight unseen because of the good old 1976 Winnebago and the name your company carried. It was a twin bed, blue color like I wanted and most of the other things we could live with. Being a demo, it had a lot of extras. First of all, it's not blue, but sea-green, I'll have to live with that. The micro-wave was to be a convection oven. It's not, it's just a micro-wave with a browner. Can't bake bread or cakes in that. I'll have to live with that. The cute little spice rack, an extra, must have been put there by a man. Any woman knows, you've got two hot pans on the front burners, you

want to get your spices. The fold-up cover for the burners is back against the rack. Now you tell me how you're going to get the spices out with the fold-up cover against the rack? Must have been a man. I know there's no place else to put it, but then how come your designers didn't think about that first?

Joe being a cook, likes the big shelf or cupboard for the pans. I know this would be where the oven goes, so we'll have to live with that. The refrigerator door keeps coming open at the most in-appropriate times (the shelves slide back and forth) like down a curvey road following the river bed. We've talked to others about that same problem. I like the availability of this lock, but not the stability. Must be a better way to keep that door closed without putting tape on it. The shelves in it seem to be too small for most cans or jars of pop. I know you buy them from another sub-contractor, but can't they design them a little bit higher shelved. They are made in place, so you can't adjust the shelves. I would like to be able to adjust them to fit my needs. Not quite your department in that sense, but would like that to be recommended.

Your designers have put in this nice wallpaper. That's okay for looks but what about around the stove and the sinks? Just how long do you think that will last around the stove where the grease is spattering all the time? I know it's washable anyway that's what they tell me. How long will the design last when you wipe the grease off each and every time you splatter? The same deal around each of the sinks. We have put up clear plastic along the stove. That I can wipe and not take the design off the wallpaper. It's pretty but not practical again. One of your educated designers thought of that?

Cupboards, only one in the whole MH has adjustable shelves. What am I supposed to do with the rest? I know we need long shelving for the big things, but we just don't have ALL big things. Cost effective again? I don't think so. I would like my cupboards to have shelves so that I could adjust them myself. I like the oak cupboards. One of our mobile homes that we lived in had all oak paneling. Easiest thing to keep clean. Beautiful, too. As it aged, it got prettier. All I had to do was Pledge them and they were as good as new.

The dinette table seemed to be sloping down towards the outside of the MH. We would put something on the table and it would run down to the end. Finally figured out why. It's 1-1/8th inches higher on the aisle side than the wall side. When the table leg was put on, I suppose they are all a certain length, but they put it on top of the carpet. That isn't all that makes it uneven as it's a lot more unlevel than that much. The top seems to have a bump in it as if there's a separation in the pressboard. I'm beginning to feel this was a Friday night hurry-up for the week-end deal or a Monday morning hang-over job.

When you make the bed down in the front room, it fits against the dinette and you can't get through without crawling up over the bed. We had intended to take my 84 year old mother along with us on trips, but she wouldn't be able to get over the bed to go to the bathroom at night. Get some of your sheep-skinned people to figure that one out. I know how I'd do it.

The switches by the door... The first thing my mom did when she went in to see the new MH, - turned every one of those switches the opposite way, accidentally with her hand as she pulled herself up the steps with the hand rail. Even I know how to fix that... put the set of switches back closer to the door. They will still be available, but you won't be shutting them off or on as you come up the steps. I've turned the darn step off many times myself until we got into the habit of watching ourselves as we came into the doorway. That shouldn't be necessary, it wasn't with our old one.

The Winnebago isn't the only MH with this problem - but as you come into the door, you automatically grab the top of the dinette to help yourself in on the steps. Of course, you know what will become dirty, fast... Like everybody else, I've put a towel across that part of the dinette. Is it necessary? Can't your engineers or designers figure that one out better? I like to have my furniture uncovered. That's why I bought the color we have because I want

to show it off, but you can't do that with these light colors because you'd be cleaning constantly. Some MHs have the dinette on the other side. I guess that would work, but then that's not your configuration. Do any of your designers or engineers even go into a MH and see how these things turn out after they have put them on paper? Do they ever ride or stay or own one of their own so they can see how these things work for real? I sure would like to hire on as a on-the-road inspector for you. Maybe I could help with some ideas.

We've had nothing but trouble with the screen door. It will not stay hooked no matter what the dealer or Joe does. We've tried three different things to try and get it to work. The velcro from the factory is a laugh. It didn't even hold until the MH got to Missoula. We tried bigger pieces of that. No such luck. Design again... Our old one worked fine, but then somebody always has to take the "tried and true" and make something new that doesn't work. We noticed you finally have the proper catch one year later on the MHs for 1991. Too many complaints?

The basement model was especially for me as I said before. I looked forward to getting that part of the MH the most. Sealed and heated as I said before. Well, took our trip and when we got home, Joe needed something from the basement and lucky he did because we wouldn't have looked into that part for a long time. Yes sir, sealed, my foot! My accordion was wet, the case on the keyboard was warped, the case on the speakers was just as bad. We took them all out and set them around the house for a week to dry. I had to open the accordion to dry the bellows out. Yes, the dealer said he had them fixed. When Joe checked the one behind the front tire, it still has rocks and dirt in it. They didn't fix it at all. We know how we are going to do it, but as I said before, it shouldn't be necessary when you buy a brand new rig. Your brochure says all that stuff in in there, not ours it isn't. Sealed, like heck

The night we spent in the local city park, was a cool night so we ran the generator for our meals and a little heat. Joe noticed oil on the grass the next morning. When we went back to the dealer, he said to keep the oil in it and we could take this trip for the Good Sams back to eastern Montana for the Spring Meeting, then take it to the authorized dealer here in Missoula after we got back. We did just that. A hole in the casing - from the factory is what we found out was wrong. Can you believe that? The dealer could elect to get a new one or replace the casing. After Joe talked with him, he decided to get a new one. Couldn't replace the thing for 6 months! All's well? no way, the dealer started the time of guarantee from the old generator. He didn't give us the benefit of the new one so we have time on the new generator that wasn't even used. That generator we had to take back three times to get adjusted. The dealer charged us for work one time until Joe read our guarantee and made them give us part of that back anyway. Quality control? I wonder.

When you want to turn the passenger chair around for more seating capacity, it hits the curtains on the sides so bad you have to force it by. Design again? It's so slow in the maneuverability that I just don't even bother. My old Winnebago wasn't that way. One foot pedal and I could turn that seat around as fast as I could step out of it.

The snaps that hold the side curtains and the ones behind the seats, are not lined up. One at the top, you can snap correctly, the one at the bottom is so close to the passenger side window frame, that you can't snap it unless you work it for minutes at a time and a few cuss words, to boot. I finally just gave up and leave it undone. Another shoddy workmanship job. Makes me angry each time I go to snap that curtain back.

The screen on the front passenger side is unworkable. The dealer tells us they are all that way and that they have complained about it. Can't your engineers figure something else out? I have finally figured out how to open my window after breaking three finger nails and using some language that I usually don't. I physically lift the screen out and back so I can open the window when I need to. There must be a better way, even your dealer agrees on that.

Those cute little fans by each side of the front window - well, first trip out, two or three drops of grease came out of the driver's side fan. I know that's not much but after all, a drop of oil in that size of a fan is about all it takes to make it break. Yes, we've documented it. The dealer knows about that.

Our T.V. had a cracked printed board made by Magnavox. The repair man told us that would have had to been from the factory. How many times in Montana do you use a T.V. when you're out fishing, etc.? By the time we figured out the T.V. wasn't working and not the stations, the guarantee was off. We are writing to the factory about that, too.

Holiday Rambler has a check-off list that the dealer has to take care of before he can let the vehicle go to the buyer. Winnebago has no such thing they tell us. We think that would be a good idea that way the dealer has to show if he checked the oil, water, etc. Maybe that's something you can add so we will get better equipment out here on the buying end of the stick. At least that would put the finger on the right place. Nobody could pass the buck.

On this trip to eastern Montana, we also ran into a rain storm. Yes sir, I got wet sitting there watching the rain. Water rain down my side window from the frame. I got a cloth thinking just a little leak. I ended up getting a beach towel, covering the radio speaker with a magazine so we wouldn't lose that, and wiped up with the rag as much as I could to keep from running a stream. We tried to get that fixed at the next town, but no such luck. Nobody could do that type of work. Thank goodness it didn't rain any more until we got home. Three times the dealer has had the MH in trying to find the leak. He thinks he's got it now. Your brochure says you water spray test. You want to use ours to test with? Last night it rained very little, but my husband was awakened by a drip on his face in bed. The right back side is now leaking! Got all of Joe's under clothes in that shelf wet, stained some of them. All that hot baloney about a rounded roof.... I'd hate to be in a bad rain storm..... We've talked with other people and each have had the same trouble with the same side of the MH. What's happening at the factory? Got to be something wrong there. It's not just our MH on this case, it's others, too.

From the beginning, we noticed the air conditioning on the dash wasn't working. We took it to the Ford dealer as the chassis is a Ford. He kept us waiting for an hour before the mechanic came to look at it. Joe had the motor cover off and all. He pushed this little release ball fitting and it sprayed freon all over him. Joe wiped him off and he said, you need a new compressor. We drove out on to the road and stopped for a light. When we looked up at the light, here was fluid all over the roof inside. Of course we went right back, got the manager, showed him what had happened. I was afraid that fluid may "eat" at the coating we have on the inside of the MH. He got his can of stuff and cleaned it all up for us. We found out, the air conditioner is an add-on AFA so we had to go to the authorized dealer on the other end of town. When he looked into the deal, he asked if anybody had worked on it, we told him about the Ford mechanic, but he said that wouldn't have done this. There are two valves, intake and outlet on the system that lets you keep the air conditioning fluid in the hoses when you need to work on the AC. The top one was closed. If it had been the other way around, the dealer told us it would have been a time bomb just waiting to go off. When the pressure would have built up enough, it would have blown up and probably us with it! Your factory people forgot to open the valves after installing it in the dash. Shoddy workmanship again. This one scares the living daylights out of me, though. We could be a statistic by now

The cruise control didn't work. I told Joe he wasn't doing it right. I read the directions over and over as he was driving, trying all different ways to try and make it work. NO LUCK. Of course not, it didn't work from the factory again. We took it back to our dealer and they took a whole day trying to find out what was wrong. A vacuum hose off from the factory, wasn't hooked up. I ask you how could that driver that took it from the factory to Arizona and then up here to Montana not tell our dealer that these things were not working? He surely must have used the cruise control at one time or another coming clear across the U.S. to Arizona. Also, it must have been hot down there. Don't tell me he didn't use the air conditioner or at least try to. Why wasn't this information passed on to our dealer so he could have had

all that fixed before we took the machine? There's where that check-off list would come in handy. It would have saved a lot of bad feelings between all of us.

The brakes squeaked all the time when we first got the MH and up to 6,000 miles. We took it to Ford to get it checked out. We both have driven enough (I've driven dump trucks, my husband having worked in construction has driven big equipment) to know when something isn't right. Squeaky brakes just aren't right. They said they would try something. In the mean time we got a recall from Ford on the brake system. We took the MH in and they put some little "T" in the system telling us there isn't room enough to let the pressure off. We make a trip to Boise for a job, go home for 3 weeks until the contractor starts up and we take a mountain pass down in Idaho. Joe gears down like he always does when he drives on mountains. We drove the same way we always drive, but no brakes at the bottom of the hill. We let those suckers cool, because they were hot! Dragging on the brakes snoes, something they were suppose to fix. That's why they squeaked. Now we were in trouble. Luckily we had space enough to stop. Smoke pouring out and into the MH. Well, they cooled and we very cautiously drove on home to Montana. You bet we took that sucker back. Well, they now have something new again and it's supposed to be fixed. We shall see. We've warned our kids if anything happens to us, check the brake system and sue them for anything and everything. We're tired of fighting over this machine. Nothing but trouble from DAY ONE. Yes, we have gone as far as the National Safety Board. You have to get a form which they will send you, to fill out and return, then they will look into this problem. Mind you, if it's not fixed on this return trip, we will do just that. My life is worth more than this old "tin Lizzy!"

Also from DAY ONE there's been a cracking, snapping noise under the left dash board. It sounds like a broken cross brace to us. We've had the MH back many times and each time they tell us they can't HEAR the noise we are talking about. Seems funny, as I can hear it from my passenger side when we are driving down the road. I'm sure they DON'T want to hear it because of the extent of the job it would be to fix it. That noise is still there.

The tires on the rear duals touch each other. No, adding air will not help this type of tire. Don't tell us it won't hurt because rubbing together like that WILL wear. We have been to Ford about it and they can't do anything. What can you do? Will you supply spacers? What is your solution to that problem? How are we going to be able to put on chains when there's no space between the tires?

You have a little plastic snap they call "Christmas trees." Please quit using them. They are placed to hold the fenders on. They last about one month, then when you replace them, the replacements are white and show up like the proverbial you know what in the fog! Of course the dealer doesn't have that new color of paint to match yet so here we sit with those "Christmas trees" showing up terribly. Can't you supply at least one can of spray paint for the touch-ups that will inevitably happen?

The sheet metal screw going out to the fenders from under the floor braces are either stripped from the factory (we've replaced four already) or will not stay in at all. The screws in the dome on the front have been over-tightened with cracks running from them. How long after the warranty will that last? Fiberglass isn't easy to fix you know. The screws on the plastic grill on the motor are the same way. Over-tightened until they stripped, then left that way. We've replaced the left side one already.

There is poor design on the shaft where the arms to the wiper blades hook on. The factory boys wouldn't take time to adjust because it's too hard to get in there to adjust. The wipers are large and do a good job, we like the size and the coverage, but they didn't go clear down on the window. Leaving a spot right in the center of the windshield, then when they would start up again, they would go clear over to the spot and start again. When they are in the stopped position, they are out too far on the windshield. Joe got in there, standing on his head, and adjusted them. They work now, but again, why is that necessary, shouldn't something new work right coming from the factory? I guess I'm old-fashioned, but I think it should. The size of the wipers are in-between what you can buy at a parts house. Either

They are too long or too short for what the stores have in stock. We've been all over looking for a backup set. Can't find any. Then, of course, being so new, the dealer doesn't have any on stock either. Don't you think "standard" when you go into something like that?

Joe was looking at the front windows while he was working on those windshield wipers and noticed he could see the inner wall around the passenger side window. He took silicone and fixed my side or that leak would have been worse yet. (The one I told you about.)

The plastic joint cover where the rear end fiberglass dome hits the coach (goes up one side across the roof and down the other side) has shrunk about two inches already. Yes, we told the dealer about it and they said, they always do that. Joe put screws in it to hold it in place. About three months later we saw a couple with a similar coach as ours, going to the dealer to have their problems worked on. Their coach had screws on this item from the factory. Is that quality control again?-some have it, some don't. We happen to be the unlucky ones that don't have it fixed.

We couldn't figure out why the heater was coming off and on so much until we looked at where the vents were. It's a Suburban furnace and that's a good one. We like that. The furnace instructions to the factory are "don't install next to the thermostat." You guessed it, the vent under the dinette table is vented so the heat goes right up to the thermostat. Great thinking. Besides being turned the wrong way, letting the heat go right up to the thermostat it blows right against the dinette wood. How long do you think that will stay clean or stain free with the heat blowing on it all the time? Also the one in the front room should be turned the other way. The way it is now, the heat is forced right up on the davenport and the chair. There again, the cleaning cores to mind. You know, some of us will have their MHs for the rest of our lives. This isn't a piece of equipment we just buy every other year or so. It's a life time savings we've spent on this machine. I'd like it to keep for a few years anyway.

Our cold water faucets in both sinks, run hot for a while first. Some where along the line those lines are crossed. Not much of a problem, but very aggravating and wasteful. Somebody draped one line too low and it's hitting the other. You guess where after it's all finished. Guess I'll have to live with that one.

You can check with our dealer, Bangisteh Bros. in Missoula, Montana. We have four or five sheets of items that needed to be fixed. They have all the copies. Each time we would have to take the MH in to town to have it worked on, it would be 20 miles in and 20 miles home, but mind you, that's two rigs! We would have to leave the MH in there for several days for them to work on, that meant we'd have to take the car in so we'd have something to come home with. Do you know what a cost that is with the price of gas and seven miles to the gallon with the MH? Probably doesn't seem much to you maybe but 80 miles for a total of mileage and not to mention the time involved counts up to a lot of money. Who's to reimburse us for all the time and money and inconvenience? Now, with the price of gas, you're lucky it was a lot cheaper then.

I was proud of my last Winnebago but this one I sure can't brag on. In fact, you are getting a lot of advertising from us let me tell you. We belong to a lot of clubs and everybody wants to know how we like our MH. We TELL them. When we go to a Good Sam Samboree, we talk with people there that have Winnebagos and discuss with them our problems and find out theirs. Lots of different kinds of coaches at one of those meetings and we sure are finding out which one is the best any more. Winnebago isn't one of those anymore, sorry to say.

Like I said before, this MH must have been a hurry-up Friday night Special or the Monday morning hang-over job. Either that or the factory hurried it through for the Arizona show and we got stuck with it. It is nothing but a pile of junk put together. Not much really works right in this "thing." I would like to know what you are going to do about this MH. If I had my way, I'd like to get a new one right off the assembly line. Maybe it wouldn't have at least half of the things wrong with it that this one does. We are looking into

Montana laws to see if there is a Lemon Law. If so, we certainly are going to fight for a better MH on these grounds we have stated.

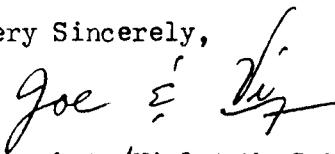
Our dealer got so tired of us coming in (Bob Pangitsch) that he asked us if we would like to go somewhere else. He didn't like us raising our voices to him when we would bring the MH back time after time to get the same item fixed such as the curtain track or the leak in the front which took at least three times to get fixed, if it is fixed! Can you blame him?

We were talking to your Itasca dealer in Boise, Idaho and he said he has seen as many as three rigs like ours come in, in one week, to have repairs before going to the customers. Now (11/90) he tells me that you have turned things around and your MHs are looking better. That doesn't help me. We have waited for a long time to get a new MH and we get stuck with a \$68,700.00 pile of junk. We will be patiently waiting for your answer on our problems. As of today, November 27, 1990, we have 11,642 miles on the MH and we have had it since February 28, 1990.

I'll tell you what, we are down here near Boise at Owyhee Dam, on a short job with the Government. You fly to Boise, I'll be there to pick you up and you come and stay with us for a couple of days. I'll show you first-hand what is wrong with this coach. Maybe then you can see what we have to put up with. We'll wine and dine you but probably not at the custom you are used to. We are the poor working class that buys your expensive ill-made equipment.

I'm patiently waiting for your answer.

Very Sincerely,



Home address: Joseph C./Violet W. Schrage
6310 E. Side Hwy.
Florence, Montana 59833

Temporarily at Owyhee Dam Site
P.O. Box 2732
Nyssa, Oregon 97913

Our mail is delivered either way because we are moved by "Official Orders".... Joe is an inspector on the job putting in new hydraulic valves in Owyhee Dam. We should be here until Christmas.

March 7, 1991

After our letter of November 27, 1990 to Mr. Hanson of Winnebago Industries, these are more deficiencies that have shown up.

The Suburban blower fan on the furnace was replaced while we were at Oyhee Dam because it just up and quit. The replaced fan is making noise like the original motor. Suburban has notified Winnebago of the problems with their motors.

The right rear wall panel was loose. It was not laminated properly at the factory so Rangitsch Bros. had to fix what the factory should have done. The trim was coming off above the rear dual. All the trim has been taken off and re-done so they will stay on.

The dealer told us that the factory has found out that the dark color on the bottom part of the MH draws the sun and warps and even breaks the panels. What are we to do after our guarantee runs out?

The electric step into the MH was loose. The welds where it's fastened to the body or frame had to be re-welded. They had broken loose. That portion above the step, inside the MH is a storage area. The whole floor was moving when you opened or closed the door. We could see the carpet moving. That's been fixed by the dealer, again something Winnebago and their quality control didn't live up to. Something that should have been done right at the factory, wasn't....

The leaks on the right hand side of the front of the MH were caused by the dealer not sealing the lag screws when he installed the new awning. The dealer has fixed that but after 10 months of wet walls - when this rots after a later date - who's going to pay for opening up the walls and making needed repairs? By then the guarantee will have run out and you know who will have to pay the bill.

While we were at Oyhee Dam, the weather dropped to below freezing. We experienced trouble with the drain in the shower. We freed it after much work, and put anti-freeze in the drain so we could use our shower when we needed to. When we took it back to the dealer, after we came home, he showed us where the trap is on the outside of the MH and will freeze every time the weather is on the freezing mark.

We've had nothing but trouble with the toilet seat in the bathroom. You can not keep the plastic nuts on the toilet seat tight.

The snapping noise under the left dash is still to be found. The dealer can not find what it is.

After two factory recalls from Ford Motor Company on the brakes, we are not sure this is correct yet. Our MH is equipped with a Ford Motor chassis.

Rear dual wheel tires touch and Ford Motor Company won't do a thing about it.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/8/91 Bill No. HB 779 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

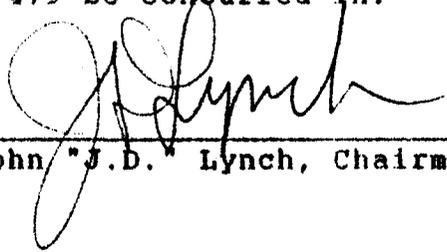
Motion: BE CONCURRED IN.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 479 (third reading copy -- blue), respectfully report that House Bill No. 479 be concurred in.

Signed: 
John "J.D." Lynch, Chairman

JML 3-8-91
Amd. Coord.

SP 3/8 1:25
Sec. of Senate

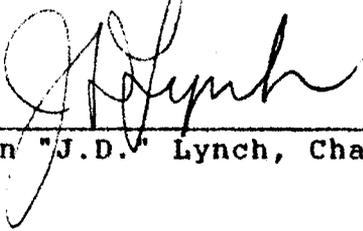
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 779 (third reading copy -- blue), respectfully report that House Bill No. 779 be concurred in.

Signed: _____


John "J.D." Lynch, Chairman

LB 3/8/91
Amd. Coord.

SB 3/8 1:25
Sec. of Senate