

January 18, 1977
11:00 a.m.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 11:00 a.m.

ROLL CALL: All members were present with the exception of Senator Peterson who was excused.

SENATE BILL 36. "An Act To Allow A Beer Wholesaler To Give Beer To Specifically Invited Guests In A Hospitality Room On His Property."

Chairman Hazelbaker introduced Senator Devine, Chief Sponsor of Senate Bill 36 who presented the bill. Senator Devine submitted an amendment to the bill. The amendment would be at page 1, section 2, line 23, after the words "beer to" add the words "persons holding and having a license under this code." Senator Devine stated that what this bill does is allows a beer wholesaler to give beer to a retailer or a person having a license to sell - not the general public. Through many efforts and letters Senator Devine stated he tried to be very honest to the fact that he just wanted his customers. Phil Strobe helped with the wording on this bill. All they want is the right to serve their customers as they come down to their place of business. Any fear that they are going to give beer away is not the intent.

Chairman Hazelbaker suggested that they move the amendment before they considered the bill. Senator Devine asked that the amendment be moved. Senator Lowe thought that the amendment would be more wordy and confusing. However, all were in favor of the amendment.

Bob Durkee, representing the Montana Tavern Association, supported Senate Bill 36, as amended.

Al Dougherty, representing the Montana Beer Wholesalers Association testified in opposition to Senate Bill 36. His testimony is attached.

Bruce Watkins, representing Gusto Distributing Company, stated he is concerned with who owns the licenses and the hours and thought this operation could get out of hand. He opposed Senate Bill 36.

There being no further proponents or opponents to Senate Bill 36, Chairman Hazelbaker asked Senator Devine to close. Senator Devine stated if you want to be a responsible wholesaler you would take care of your tavern owners. He thinks the lack of public relations in his business is the part that really concerns him.

Senator Regan stated that Senator Devine defined this bill as a good public relations bill. Actually, she thought it was a form of competition and advertising. She thought if someone opened a hospitality room, then their competition would have to open one too.

Senator Goodover asked if there were any other states that have had any experiences like this. Mr. Dougherty stated they do have hospitality rooms in Colorado. Senator Devine stated a lot of states have wine, but he thought beer was restricted.

The Hearing on Senate Bill 36 was closed.

Senate Bill 73. "An Act For The General Revision Of Laws Relating To A Three-Day Cooling Off Period On Door-To-Door Sales."

Chairman Hazelbaker introduced Senator Pat Regan, Chief Sponsor, of Senate Bill 73. Senator Regan stated she was asked to sponsor this because the Department of Consumer Affairs is having difficulty. She then went through the bill stating her changes, such as page 1, section 1, lines 13 and 14 door to door was changed to personal solicitations. Personal solicitations is then defined on line 21. However, there are some exclusions that will protect the legitimate businessman. These exclusions were listed. Senator Regan stated the purpose of the bill is to shut down the operations from a telephone booth which we have had difficulty with in Montana. The person calling you would have to state he is calling because he has something to sell. He would not be able to open with the words -- Congratulations, you have won! This bill also ties in the three-day cooling off period on door to door sales.

Mr. Dick Disney, Department of Business Regulations and Consumer Affairs stated that he has found that a lot of organizations that were sending door to door salesmen have come down to long distance telephone solicitation. He feels there is a need for this additional statute concerning this law in regard to telephone solicitations. He stated Mr. Wood from his staff would answer any questions.

Russ Livergood, representing Montana Retail Association, testified in opposition to Senate Bill 73. His testimony is attached.

Chairman Hazelbaker then asked Senator Regan to close. Senator Regan referred to Section 6 of the bill. She stated this is the law now. They are only attempting to shut the door on door to door salesmen or someone intruding into your living room either by door to door people, TV, etc. She urged the Committee to give a Do Pass to this bill.

After some discussion Roger Tippy asked Mr. Wood about some amendments which he thought might be needed. The main amendment would be the title. Roger thought that the title was too short. Roger asked various other questions of which no amendments were made. However, Roger stated that he wanted the Committee to know that they had added a violation of the unfair trade practice act and they should be aware that they were giving them the power to seek injunctions.

The Hearing on Senate Bill 73 was closed. Chairman Hazelbaker stated these bills would be discussed at an early meeting.

Senate Bill 4. "An Act For The General Revision and Clarification Of Laws Relating To Trade And Commerce."

Senate Bill 4 was returned on second reading to the Committee of Business and Industry for further amendments. Chairman Hazelbaker read the new amendments submitted by Dave Cogley, Attorney for the Legislative Council. Senator Lowe moved that the amendments to the bill be approved. Senator Kolstad seconded. However, Senator Regan wanted to know exactly why these amendments were made so they will be held until Roger Tippy can contact Dave Cogley and find that information out for Senator Regan.

ADJOURN: There being no further business, Chairman Hazelbaker adjourned the meeting at 12:20.


FRANK W. HAZELBAKER, Chairman

Business & Industry COMMITTEE

Date 1-18-77

[illegible]



MONTANA RETAIL ASSOCIATION

GRANITE BLOCK • P. O. BOX 440 • HELENA, MONTANA 59601
SERVING THE TOTAL INTERESTS OF MONTANA RETAILERS

SENATE BILL NO. 73

AREA CODE 406
442-3388

REVISING LAWS RELATING TO A 3-DAY COOLING
OFF PERIOD ON DOOR-TO-DOOR SALES.

Testimony before the Senate Business and
Industry Committee

Mr. Chairman, Members of this Honorable Committee:

My name is Russ Livergood and I represent the Montana Retail Association.

The Montana Retail Association is opposed to Senate Bill No. 73

Although the intent of Senate Bill 73 is not to impose restrictions on the established business community of Montana, in several areas this suggested revision does just that. When one reads the definitions of "buyer", "personal solicitation", "personal solicitation sale" and "seller," Senate Bill 73 becomes more general in nature and broader in scope than the title conveys.

Page 2, line 22 through page 3, line 4. Disclosure obligation requires that before any personal solicitation occurs that seller, at the time of initial contact or communication with the buyer shall clearly name the business and the identity or kinds of goods he wishes to sell. This requirement seems to be trying to place a type of formula on the manner in which a sale can be made and would be clumsy for a businessman to use.

Page 3, lines 4 through 10. When initial contact is made the seller also must show the buyer an I.D. card which is to contain the seller's name and the name of the business he represents. This practice would not only

ALFRED F. DOUGHERTY

ATTORNEY AT LAW

P. O. BOX 593

HELENA, MONTANA 59601

TELEPHONE 406/ 442-1440

SUITE 6 - GRANITE BUILDING - 30 1/2 NORTH MAIN STREET

18 January 1977

STATEMENT IN OPPOSITION TO SENATE BILL NO. 36
BEFORE THE MONTANA SENATE COMMITTEE
ON BUSINESS AND INDUSTRY

- - - - -

I represent the Montana Beer Wholesalers Association, a vast majority of whose members oppose passage of Senate Bill No. 36.

The bill proposes to amend Section 4-3-216 of the Code.

Section 4-3-216 has considerable history attached to it. It has been a part of Montana law since 1933 when the sale and consumption of beer were legalized after the repeal of the Eighteenth Amendment. It was a significant part of the legislation once again legitimating beer.

One of the major reasons the Eighteenth Amendment was passed by the people of the United States was the existence of "tie in" arrangements between breweries, beer wholesalers, and saloons. Social and economic abuses proliferated to such an extent people generally revolted against the alcoholic beverage business.

When prohibition was repealed extensive effort was made both nationally and in many of the states to secure effective separation of brewers from wholesalers and both brewers and wholesalers from retailers so that the old "tied house" evils would not reappear.

Montana has since 1933 prohibited brewers from retailing beer. It likewise has prohibited wholesalers from engaging in the bar business. In fact, a specific section of Montana law says brewers and wholesalers cannot have any financial interest whatsoever in a retail beer or liquor business...In other words, the law has for forty-four years said, "Be a brewer or beer wholesaler or a tavern owner as you please, but you shall not mix any two or three of those occupations."

The 1933 beer law did inadvertently have one loop-hole. It allowed a wholesaler to sell or distribute beer to the public in the original package of a quantity not less than two gallons. Thus, a wholesaler who could not legally own a bar could sell under those circumstances direct to the public.

But in 1973 some tavern owners in Western Montana came to the Montana Legislature and plugged that loophole by making it unlawful for a wholesaler "to give, sell, deliver, or distribute any beer...to the public." Section 4-3-215.

cont'd