

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

March 15, 1977

The twenty-sixth meeting of the Public Health, Welfare and Safety Committee was called to order in Room 405 of the State Capitol Building by Chairman Stan Stephens on Tuesday, March 15, at approximately 11:00 A.M.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 805: In the absence of the sponsor of this bill, Chairman Stephens turned the Committee hearing over to Representative Eudaily, who explained the bill. The Representative said this bill and HJR73 were the result of work done on the House side, in Committee, on HB381. House Bill 805 is a Committee Bill - it takes the existing law, which deals only in prohibition of sexual material, and adds offensive violence to it. Mr. Eudaily said this bill is aimed primarily at previews shown along with children's ("G" rated) movies. The Representative said this is just a decency bill.

Gladys M. Vance, Montana State P.T.A. president, spoke in support of the bill, saying that, in her town of Missoula, they have tried to work with theatre owners through ordinances. The P.T.A. is concerned because of the increase in "R" and "X" rated material. Because this material seems to be on the rise, P.T.A. groups have started working toward a reasonable solution for both sides. Mrs. Vance said, "We are ready to accept the responsibility that comes with the passing of this bill".

Maxine Lone, of the P.T.A. in Missoula, supports this bill. In her testimony, she brought out the fact that movie theatres are supported in Missoula through their summer movie passes for community children; this year a pass can be purchased for parents and the children. Mrs. Lone then gave an example of a P.T.A.-supported movie, "Joe Panther," which was shown in her town a few days ago. Following that movie, the theatre owner showed a preview of a movie to come which showed a person pouring a bucket of blood on a child. This sort of combination, she said, is totally wrong.

Sharon Williams, of the P.T.A. - District III president, testified next. Mrs. Williams said, when the above situation occurred, and parents called the theatre owner to complain, the preview was taken out - they have a good rapport with the theatre owners.

March 15, 1977

William L. Romine, representing the Montana Theatre Association, testified in opposition to this bill because his association feels it would create a new area of the law, i.e., that of violence. He asked if the State has the money to do this. This will have to be looked at, should the law go into effect, on a case by case basis. Every case would be looked at differently. Romine said he feels this legislation would be unconstitutional. Romine explained the "green" and "red" trailers for movies, i.e., the green trailer is so indicated to assure theatre owners that that preview is acceptable to show along with "G" rated pictures. (Some owners do not follow the rule of showing those previews with the family oriented movies.) The red trailer is so indicated, making it obvious to the theatre owners that that particular trailer is totally unacceptable to show to general audiences. (Sometimes theatre owners show these previews with the "G" rated movies.) Romine suggested to the Committee that they give this bill a no not pass, and use the HJR73 to accomplish the censure of theatre owners who do not comply with the rules regarding red and green trailers. Romine said HB805 will cause a problem with drive-ins.

Mr. Romine proposed an amendment to page 2, line 17: following: "by", strike: "this", following: "section" insert: "1".

Don Garrity, Motion Picture Association of America, Inc., spoke next in opposition of HB805. Garrity said previews are classified "G" or "R" in the same way movies are. But, following the rule on showing "G" previews with similar movies is a voluntary thing for the theatre owners. (See Exhibit "B")

Senator Menahan gave closing remarks, saying that it is time we let the judges know we are tired of the decisions that they have been handing down - let's get some things changed.

Questions from the Committee followed. Committee members were concerned with the exact definition of the terms "red" and "green" trailers, how the previews are shown, whether the theatre owners would abide by the "G" ratings on movies and previews without legislation, whether it is not the theatre owners showing the correct preview with the "G" rated film - but the national association mis-labeled the preview, i.e., the association is much to lenient with their own industry. The P.T.A. representatives said the community needs a tool to force theatre owners to do their job correctly.

Hearing closed on HOUSE BILL 805 with NO ACTION being taken.

March 15, 1977

CONSIDERATION OF HOUSE JOINT RESOLUTION 73: Representative Menahan explained this Joint Resolution to the Committee by saying there is an existing law covering theater owners, however the House Public Health Committee put this Resolution in to urge the county attorneys to check out complaints on theaters and to follow through with arrests or whatever is necessary.

Representative Eudaily said this Resolution is a companion bill with HB805 and the two together should do the job.

Gladys M. Vance again testified, and as for House Bill 805, she supports HJR73.

William L. Romine testified in support of this Resolution.

Questions from the Committee established that the sponsor really needs both HB805 and HJR73 passed together to get the issue resolved; there would not be anything in the law on violent previews if this legislation is not passed; the green trailers have been edited and are generally cleaner than the red.

Hearing was concluded on HOUSE JOINT RESOLUTION, with NO ACTION being taken at this time.

ACTION ON HOUSE BILL 219: This bill was re-referred to the Senate Public Health Committee by a floor motion on the part of Senator Olson. Senator Olson told the Committee he changed his mind and did not wish to re-consider the bill - the Committee then passed it out by a 4 to 3 vote (Senator Roberts abstained) following Senaor Lee's motion that HB219 BE CONCURRED IN. (Senator Lee will carry on the Senate floor.)

ACTION ON HOUSE BILL 227: Senator Roberts moved HB227 BE CONCURRED IN -- the vote was unanimous.

CONSIDERATION OF HOUSE BILL 236: After a lengthy discussion and an amendment (See Exhibit "D") the Committee Secretary was asked to invite witnesses Sloullin and Lackman back to the Committee Thursday. The Committee will re-consider this bill for the third time Thursday.

CONSIDERATION OF HOUSE BILL 330: Senator Watt moved the amendment proposed by Mr. Melby (Department of Social and Rehabilitation Services) - motion carried on a voice vote. Further discussion disclosed what the Committee thought was a discrepancy in the bill and the testimony. In order to clear the matter up, Committee Secretary Allen was instructed to ask Mr. Melby back for Thursday's Committee meeting. The Committee will act on this bill at that time.

ADJOURNMENT: With no further business at this time, Chairman Stephens adjourned the meeting at 12:30 P.M.


STAN STEPHENS, Chairman

R O L L C A L L

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 3/15

[illegible]

DATE

3/15/77

COMMITTEE ON

Public Health

BILL NO.

VISITOR'S REGISTER

NAME

REPRESENTING

Check One

Support Oppose

Bry Wilkins
Ade MitchellTHEATRE OWNERS and
THEATRE OPERATORS INC.

HJR 73

HB 805
✓

STANDING COMMITTEE REPORT

MARCH 15

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MR. **PRESIDENT**

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **227**

Respectfully report as follows: That **HOUSE** Bill No. **227**
third reading bill

BE CONCURRED IN

~~EXPASE~~

B a

STANDING COMMITTEE REPORT

MARCH 15

77

19.....

MR. **PRESIDENT**.....

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**.....

having had under consideration **HOUSE**..... Bill No. **219**.....

Respectfully report as follows: That **HOUSE**..... Bill No. **219**.....

**AND, AS AMENDED,
BE CONCURRED IN
UNANIMOUSLY**

J.R.

ROLL CALL

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977

Date 3-15 Bill No. 227 Time

NAME S:

YES

NO

	YES	NO
LEE, Robert	/	
RASMUSSEN, Tom	/	
OLSON, Stuart	/	
HIMSL, Matt	/	
WATT, Robert	/	
ROBERTS, Joe	/	
NORMAN, Bill - V. Chm.	/	
STEPHENS, Stan - Chairman	/	

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion: Sen. Roberts

moved he concurred in

(include enough information on motion put with yellow copy of committee report.)

ROLL CALL

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977.

Date 3-15 Bill No. 219 Time _____

NAME S:	YES	NO
LEE, Robert	✓	LEE
RASMUSSEN, Tom	✓	RASMUS
OLSON, Stuart		1 OLSON
HIMSL, Matt		2 HIMSL
WAIT, Robert	✓	WAIT
ROBERTS, Joe	abstain	ROBERT
NORMAN, Bill - V. Chm.		3 NORMAN
STEPHENS, Stan - Chairman	4	STEPH

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion: Sen. Lee moved
be concurred in.

(include enough information on motion—put with yellow copy of committee report.)

E X H I B I T "A"

HOUSE BILL NUMBER 805

Mr. Chairman, and members of the Committee, my name is William L. Romine, and I represent the Montana Theater Owners Association. At the time this bill was heard in the House, neither myself nor the members of the Association had had a chance to review the bill and study it in any depth. This was a committee bill, and I received the bill only a day prior to the hearing. I had informed the House Committee that although we would not oppose the bill in the House, and although we did support the concept of protecting minors, it would be necessary to study the bill in depth before we could make a final decision. After reviewing the bill in some depth, and discussing the matter with members from the Association, we have come to the conclusion that we cannot support passage of HB 805. The main problem is that this bill introduces into law an entirely new concept of censorship. It is my understanding that there are no other states which have prohibitions concerning offensive violence. This would mean that Montana would be the pioneer in this particular law, without any precedent to fall back on as to interpretation.

I can foresee the possibility of many long, complicated, and costly law suits, with appeals to the Supreme Court, in an effort to define offensive violent material.

We feel that this approach is not necessary. This bill is aimed at previews, which are called trailers in a theater industry. The Motion Picture Association of America prepares the trailers and distributes them to the theaters. There are two types of trailers prepared, the so called green banded trailers and red banded trailers. Green banded trailers are previews which have been edited by the National Association, and they have edited from the previews not only offensive sexual material, but also graphic language and excessive violence. The statement contained upon the green banded trailers is that it has been edited for showing to general audiences, which means that it is acceptable for showing to the children attending the Saturday afternoon matinee.

The red banded trailers are not so edited, and they are to be shown at R or X rated movies. There is therefore an effort made to exclude offensive material.

Aside from the complication involved in attempting to define offensive violent material, there is an other problem with HB 805. Under the existing subsection 3 now, renumbered subsection 4, lines 16 through 19 page 2 you will note that a drive-in movie screen may not display anything which is prohibited by the act if it can be easily visible from a public street or sidewalk. This provision, under the present law, is aimed at offensive sexual material. Because of this, drive-ins in the areas where the screen can be seen from a road or street, have gotten away from the showing of sexually explicit movies. They do however, show movies which contain a certain amount of violence. As House Bill 805 is now written, a drive-in theater could be prosecuted because it had shown a preview to the patrons who were attending a R rated movie, wherein no minors were allowed in the theater, merely because that preview would be seen from an existing road or sidewalk. This would place a great burden upon the drive-in theaters, and one which I am sure is not the intent of this bill.

Because of the complications involved in trying to define offen-

E X H I B I T "B"

*Mr. Gandy,
Motion Picture
Association*

STATEMENT OF
MOTION PICTURE ASSOCIATION OF AMERICA, INC.
IN OPPOSITION TO HOUSE BILL 805

House Bill 805 would prohibit theaters from showing previews containing "offensive violent material" to minors. The Motion Picture Association of America, Inc., through its rating agency, does rate both motion pictures and their previews with respect to violence as well as sexual candor. Only "G" rated (suitable for the general public) previews are approved for showing to audiences attending "G" or "GP" rated motion pictures.

However, as a private association, we are free to do things which a government may not do under the Constitution. In Winters v. New York, 333 U.S. 507, the United States Supreme Court struck down a New York statute prohibiting the sale of books and magazines devoted to the publication of deeds of bloodshed, lust or crime as unconstitutionally vague. Several recent court cases have also invalidated statutes which prohibited the showing of movies containing "excess violence" to minors. The Fifth Circuit Court of Appeals, in Interstate Circuit, Inc. v. City of Dallas, 366 F.2d 590, (1966), held that a Dallas ordinance which forbade the showing of movies depicting "excessive brutality and criminal violence" to children violated the First Amendment. The court said that

E X H I B I T "C"

HOUSE JOINT RESOLUTION #73

Mr. Chairman, and members of the Committee, my name is William L. Romine, and I represent the Montana Theater Owners Association. We support passage of HJR 73.

~~_____~~, the Association has long maintained that minors should be protected, and that an adult should knowingly decide what type of movie he wishes to see. The theater owner is provided with previews which are edited for showing at general audiences, and there should be no reason why he should show a preview which has not been so edited. The intent of this resolution is directed towards those theater owners who knowingly or recklessly show an offensive preview. There could be occasions when a real mistake occurs, wherein the theater owner did not know of the content or was not being reckless, and of course, this resolution is not aimed at that honest mistake.

It would be our hope that this resolution, if passed, would impress upon those very few theater owners, who are not taking care to show edited previews, to change their practice and to comply with the Montana laws. For these reasons we urge the committee to give favorable recommendation to HJR 73.

E X H I B I T "D"

HOUSE BILL 236 - Committee Amendment proposed by Senator Norman

Amend page 3, section 1, line 23.

Following: "in the"

Strike: "earmarked revenue"

Insert: "general"

Following: "fund"

Strike: "for use by the department"

E X H I B I T "E"

SUGGESTED AMENDMENTS TO HB 330

(PAT MELBY)

1. Amend page 5, section 6, line 3.

Following: line 2

Insert: "Section 7. Subsidized adoption program limited. In providing for the subsidization of adoption as provided for in this act, the department may not expend or otherwise obligate funds in excess of those specifically appropriated for that purpose."

Renumber: subsequent sections