

11:10 a.m.
March 26, 1977

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.

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

EXECUTIVE ACTION ON HOUSE BILL 610:

Senator Regan stated this bill was held up to check on the fees. She says they have been brought up to standard. They might be cut a little but they have a good deal of reserve so it will be alright. She stated she asked Mr. John Northey to prepare some amendments for her. Those are attached. (Exhibit #1) She stated Roger Tippy thought they were o.k.

Senator Regan made a motion that amendment (4) be adopted. Senator Lowe seconded. All were in favor.

Senator Regan made a motion that the rest of the amendments on the attached sheet be adopted. Senator Lowe seconded. All were in favor.

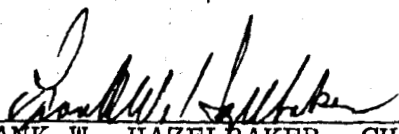
Senator Regan moved that HB 610 (with her amendments and Senator Goodover's amendments) As So Amended, Be Concurred In. Senator Goodover seconded. All were in favor.

HOUSE BILL 304

Senator Goodover stated he had some amendments which were brought to him by Russ Livergood, lobbyist for the Montana Retail Assn. The Committee will read them over and will discuss them at our next meeting. (Exhibit #2)

Senator Regan stated the amendments handed to the Committee during the meeting on March 24, 1977, by the Department of Business Regulations and Mike McGrath should be adopted. She went through amendments #1, #2, #3, and #4 on the attached sheet. (Exhibit #3) All were in favor.

ADJOURN: There being no further business, Chairman Hazelbaker adjourned the meeting at 11:40 a.m.


FRANK W. HAZELBAKER, CHAIRMAN

Business & Industry COMMITTEE

Date 3-26-77

[illegible]

Exhibit #1

AMENDMENT TO HOUSE BILL NO. 610

That House Bill No. 610, third reading copy, be amended as follows:

1. Amend page 1, line 17.
Following: "SUBDIVISION OF THE STATE;"
Insert: "SPECIFYING THE DIRECTOR'S AUTHORITY OVER CONTRACTS AND EXPENDITURES;"
2. Amend page 1, line 20.
Following: "66-3608,"
Strike: "AND 69-3416"
Insert: "69-3416, AND 82A-1604"
3. Amend page 17, following line 6.
Insert: "Section 13. Section 82A-1604, R.C.M. 1947, is amended to read as follows:
'82A-1604. Director--duties. In addition to his powers and duties under sections 82A-107 and 82A-108 of this act, the director shall:
(1) Appoint impartial legal counsel to conduct hearings before each board within the department whenever any board holds a hearing. The legal counsel appointed shall see that hearings are conducted in a proper and legal manner.
(2) Whenever the department conducts an investigation of a complaint of illegal or unethical conduct of a member of a particular profession or occupation as prescribed in section 82A-1603(5) of this chapter, and if requested by the appropriate board, appoint an impartial member of that profession or occupation to assist the department in its investigation. The member so appointed may not be a member of the board having jurisdiction over the particular profession or occupation.
(3) Hire all personnel to perform the administrative and clerical functions of the department for the boards. Boards within the department have no authority to hire personnel.
(4) Approve all contracts and expenditures by boards within the department. No board within the department may enter into a contract or expend funds without the approval of the director."
4. Amend page 17, line 7.
Strike: "Section 13."
Insert: "Section 14."

Russ Livingston
Exhibit #2

STANDING COMMITTEE REPORT

Mr. President:

We, your committee on Business and Industry, having had under consideration House Bill No. 304 entitled "AN ACT FOR THE RECODIFICATION AND GENERAL REVISION OF CHAPTERS 1 AND 4 OF TITLE 51, R.C.M. 1947, RELATING TO UNFAIR TRADE PRACTICES; AMENDING SECTIONS 8-103.4, 82 A-401.1, 82 A-404, AND 84-2412, R.C.M. 1947, TO STRIKE INCORRECT REFERENCES TO THE UNFAIR PRACTICES ACT; AND REPEALING SECTIONS 51-101, 51-101.1, 51-103, 51-104, 51-105, 51-107, ~~51-109~~, 51-112, 51-114, 51-118, 51-401, 51-403 THROUGH 51-410, 51-412, AND 51-414, R.C.M. 1947," respectfully report as follows: House Bill No. 304, third reading copy, be amended as follows:

1. Amend page 2, line 15
Following: "retailer"
Insert: a ", "
Strike: the balance of line 15, all of line 16 and
the words and punctuation "retailer, whichever is lower," on line 17.
2. Amend page 2, line 24
Following: "added"
Strike: "a"
Insert: "the retailer's customary"
Following: "markup"
Insert: a "." and strike the balance of line 24 and all of line 25.
3. Amend page 3
Strike: all of lines 1 and 2
4. Amend page 3, line 4
Strike: "within 30 days prior to the" and
Strike: line 5 in its entirety, and
Strike: "the wholesaler, whichever is lower" in line 6
5. Amend page 3, line 16
Strike: subsection (5) and
Renumber: all subsequent subsections
6. Amend page 4, line 8
Strike: subsection (8) in its entirety, and
Renumber: all subsequent subsections
7. Amend page 10, line 4
Insert: following line 4 new subsections (5) and (6) as follows:

"(5) The provisions of this section shall not apply to sales at retail or sales at wholesale where:

- (a) merchandise is sold in a bona fide clearance sale;
- (b) perishable merchandise must be promptly sold in order to forestall loss;
- (c) merchandise is imperfect or damaged or is being discontinued;
- (d) merchandise is sold upon a final liquidation of any business;

(e) merchandise is sold for charitable purposes or to relief agencies;
(f) merchandise is sold on contract to departments of government or governmental institutions;

(g) the price of merchandise is set in good faith to meet an existing price of a competitor;

(h) merchandise is sold by any officer acting under the order or direction of any court;

(i) any sale made in an endeavor, made in good faith, to meet the legal prices of a competitor selling the same article in the same locality or trade area."

"(6) No person may claim the exemptions under subsections (3)(a) through (3)(d) if he fails to conspicuously disclose the reason for such sale in all advertisements relating thereto and on a label or tag on such merchandise or on a placard where the merchandise is displayed for sale."

8. Amend page 12, line 1

Insert: following the words "such sales" the following:

"after making allowance for the difference, if any, in the grade, quality, quantity and actual cost of transportation,"

9. Amend page 12, line 22

Insert: a ";" following the word "competitor" and

Strike: "and is based on" and

Strike: Lines 23 and 24 in their entirety

10. Amend page 13, following line 1

Insert: a new subparagraph (i) as follows:

"(i) any sale made in an endeavor, made in good faith, to meet the legal prices of a competitor selling the same article in the same locality or trade area."

11. Amend page 13, line 3

Strike: "if he limits or otherwise" and

Strike: line 4 in its entirety and

Strike: "purchased by any buyer or" in line 5.

1. Amend page 1, section 1, line 22 through 24.
Following: "prevented."
Strike: the last sentence of section 1 in its entirety.
2. Amend page 3, section 2, line 17 on page 3 through line 2 on page 4.
Following: "costs,"
Strike: the balance of line 17 on page 3 through line 2 on page 4.
3. Amend page 22, section 17, line 25.
Following: "if injured thereby"
Insert: "or the attorney general,"
4. Amend page 31, line 14.
Following: Line 14
Insert: "section 26. Severability. If any part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Amendments #1, #2 and #4 are the amendments from the Department of Business Regulation.

Amendment #3 is the amendment from Mike McGrath, Department of Justice.

STANDING COMMITTEE REPORT

March 28

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MR. **President**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE** Bill No. **610**

Respectfully report as follows: That **HOUSE** Bill No. **610**,
third reading, be amended as follows:

1. Amend title, line 11.
Following: "ACCOUNTANTS,"
Insert: "REAL ESTATE"

2. Amend title, line 16.
Following: Line 15
Strike: "LICENSED MASSAGE THERAPISTS"
Insert: "REAL ESTATE BROKERS OR SALESMEN"

3. Amend title, line 17.
Following: "STATE;"
Insert: "LIMITING TRAVEL AUTHORITY OF THE BOARD OF REAL ESTATE;
SPECIFYING THE DIRECTOR'S AUTHORITY OVER CONTRACTS AND
EXPENDITURES;"

4. Amend title, line 19.
Following: "66-1826,"
Insert: "66-1934,"

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Business and Industry Committee Amendments to HB 610

5. Amend title, line 20.

Following: "66-3608,"

Strike: "AND 69-3416"

Insert: "69-3416, AND 82A-1604"

6. Amend page 15, section 10, lines 20 through 23.

Following: "license."

Strike: The last sentence in section 10 in its entirety.

7. Amend page 17, section 12, line 6.

Following: Line 6.

Insert: "Section 13. Section 66-1934, R.C.M. 1947, is amended to read as follows:

'66-1934. Fees--when due. (1) The following fees shall be charged by the department and paid into the earmarked revenue fund for the use of the board, subject to section 82A-1603(6):

(a) For each examination, a fee not to exceed ~~fifty-dollars~~ ~~(\$50)-~~ \$25.

(b) For each original resident broker's license issued, a fee not to exceed ~~fifty dollars~~ ~~(\$50).~~

(c) For each annual renewal of a resident broker's license, a fee not to exceed ~~fifty-dollars-(\$50)-~~ \$30.

(d) For each original nonresident broker's license issued, a fee not to exceed ~~fifty dollars~~ ~~(\$50).~~

(e) For each annual renewal of a nonresident broker's license, a fee not to exceed ~~fifty-dollars-(\$50)-~~ \$30.

(f) For each original salesman's license issued, a fee not to exceed ~~twenty-five dollars~~ ~~(\$25).~~

(g) For each annual renewal of a salesman's license, a fee not to exceed ~~twenty-five-dollars-(\$25)-~~ \$15.

(h) For each additional office or place of business, an annual fee not to exceed ~~twenty-five dollars~~ ~~(\$25).~~

(i) For each change of place of business or change of employer or contractual associate, a fee not to exceed ~~twenty-five-dollars~~ ~~(\$25)-~~ \$15.

(j) For each duplicate license, where the original license is lost or destroyed and affidavit is made, a fee not to exceed ~~ten dollars~~ ~~(\$10).~~

(k) For each duplicate pocket card, where the original pocket card is lost or destroyed and affidavit is made, a fee not to exceed ~~ten dollars~~ ~~(\$10).~~

(2) The board shall adopt a schedule of fees within the limits set by this section. However, a fee once set for one of the items for which a fee is charged cannot be increased or decreased until at least one (1) year has passed since the fee for that particular item was last increased or decreased.

(3) Annual fees are due and payable for the ensuing year during the month of December of each year. Failure to remit annual fees before January 1 automatically cancels the license, but otherwise the license remains in effect continuously from the date of issuance, unless suspended or revoked by the board for just cause.

March 24, 1977

Business and Industry Committee Amendments to HB 610

(4) No license fee or tax may be imposed on a real estate broker or salesman by a municipality or any other political subdivision of the state, other than principal place of business.

(5) No member of the board may be reimbursed from the board's earmarked revenue fund for travel outside the state on business of the board. ' "

"Section 14. Section 82A-1604, R.C.M. 1947, is amended to read as follows:

'82A-1604. Director---duties. In addition to his powers and duties under sections 82A-107 and 82A-108 of this act, the director shall:

(1) Appoint impartial legal counsel to conduct hearings before each board within the department whenever any board holds a hearing. The legal counsel appointed shall see that hearings are conducted in a proper and legal manner.

(2) Whenever the department conducts an investigation of a complaint of illegal or unethical conduct of a member of a particular profession or occupation as prescribed in section 82A-1603(5) of this chapter, and if requested by the appropriate board, appoint an impartial member of that profession or occupation to assist the department in its investigation. The member so appointed may not be a member of the board having jurisdiction over the particular profession or occupation.

(3) Hire all personnel to perform the administrative and clerical functions of the department for the boards. Boards within the department have no authority to hire personnel.

(4) Approve all contracts and expenditures by boards within the department. No board within the department may enter into a contract or expend funds without the approval of the director. ' "

Renumber: Following section.

AND AS SO AMENDED, BE CONCURRED IN