

## HOUSE TAXATION COMMITTEE

## 46th LEGISLATURE

The House Taxation Committee was called to order by Chairman Herb Huennekens at 8:30 a.m., in Room 434, Capitol Building, on April 3, 1979. All members were present. The staff attorney Randy McDonald was present.

Bills to be heard were: SBs 99, 172, 358, 415, 416, 459

Senator Pat M. Goodover, District #13, Great Falls, the chief sponsor of SB 99, which is by request of the Revenue Oversight Committee, felt there were a number of things that were not addressed in the initiative that had to be considered, such as the need for state alcohol rehabilitation program income from wine sales. There were seven words in section 17 of the initiative that said only wine containing 14% alcohol and over could be sold in state liquor stores and he felt most voters were unaware that this in effect removed wine from state liquor stores. Senator Goodover had a leaflet which he said was the primary one used in the campaign. This, newspaper articles of that time, and information sent from the Attorney General did not mention that table wines would not be sold at the state liquor stores. The intent of the people, he felt, was to allow for the private sale of table wine and to make it more available by being sold in grocery and drug stores and not that the state liquor stores would not sell it. Another change this bill makes is to say no distributor can be a retailer. Large chain stores must order their wine through a distributor. The state will collect the tax through the distributors. The bill will allow the state to order special shipments of wine if the distributor cannot get it. Basically what the bill does is amend the statement of policy to say that the state will continue to retail wine. A statement of intent was left and is included with the minutes.

Rep. Paul Pistoria spoke as a proponent. He passed copies of a cartoon to the members and a copy is included with the minutes. The cartoon depicts what will happen if we allow the out-of-state chain stores to have a monopoly on wine over the counter. More of our money will be leaving the state. He felt Initiative 81 had been an attempt to fool the people. The selection of wine will not be as good.

Roger Tippy spoke for the Committee on Licensed Wine Distributors. These are a group of wholesalers who are getting some winery commitments and planning to get set up for the implementation of the initiative. He presented a list of amendments which are attached to the minutes. The first amendment would allow the wholesalers to get temporary authorization to start stocking shelves the last twenty days of June, although there would be no sales until July 1. The state liquor store would liquidate its table wine inventory and so realize one and a half million extra as a one-time windfall. Also included were amendments to go to the metric form in tax collecting. At 20¢ a liter this would be equal to 75¢ a gallon and 16¢ would go to the general fund and 4¢ to the other three funds. The last suggested amendment the department opposes and they would not

go to the mat on it. Presently the tax is due the middle of the month following receipt of the wine and they would like to change that to a tax at the time of sale. This would encourage a broader selection of the more exotic wines, as they would sell slower, and the distributors would now tend to stock only the higher turnover items.

Mr. Devine of Great Falls spoke for the bill saying otherwise all the money goes out of state.

Ross Cannon, Montana Food Distributors, spoke as a proponent with a minor amendment, a copy of which is part of the minutes. All retailers, private or state, will buy their supplies from private distributors and set their prices to get a fair return. The bill specifically deals with the state's method of selling wine in section 8, page 12, by saying it is to be computed by adding to the state wide weighted average cost of table wine the state markup as designated by the department. Wine is marked up about 80%. We don't wish, he said, to inhibit the state's ability to price but the state potentially has the capacity to put a pressure on the retail stores they might be in direct competition with. This amendment asks the department to adopt rules setting forth their pricing methodology. He felt everyone that is affected by the state being in the retail wine business will benefit from understanding what percentage of markup the state intends to use.

Leon Messerly, Liquor Division, spoke as an amender. He presented an amendment, which is part of the minutes, to strike section 9 on pages 13 and 14. This amendment would eliminate the state having responsibility for special order wine. The private sector will be buying wine from the wine growing areas and they will be able to obtain more feasible rates than the state would be able to. He said it is burdensome to handle special orders as they would have to solicit the wholesalers prior to doing so and then if the wine is successful they would want us back out of the import business. This could cause them to be in constant litigation. He agreed with Roger Tippy's metric change.

Lonny Mayer, Retail Clerks Union, spoke in support.

J. D. Lynch, Cascade Tavern Association, spoke as an amender. He felt the rural counties would have problems as the tavern owners would be unable to buy their wine stock from the liquor stores. If the state could remain as a wholesaler it would leave the state and the people who like wine in a much better shape. The bill in its present form is a travesty.

Senator Goodover in closing said Cascade County is the only county that still opposes the bill. Senator Turnage had wished to be present to go on record as favoring the bill. He felt the department's desire to be out of special wine purchasing was no problem and the change to metrics could be addressed in the statement of intent.

Rep. Fabrega asked if all the other retailers are going to reveal their markup method. Mr. Cannon said this is different as the department is a public agency. He felt it would be better if put into the administrative rule book. Rep. Fabrega asked if competition shouldn't determine the markup as with this suggested amendment the state wouldn't have the flexibility to follow the market. Mr. Cannon said the only way they can know what the department will do is to require them to set it out where all can see it. Rep. Fabrega felt this would make the state's position too rigid and they should be able to float with the market. Mr. Cannon felt then it would be necessary to amend section 8 as that language would not

permit the state to do this, and in that case the state would become the biggest chain store of them all.

Rep. Reichert asked concerning monetary loss to the state. Senator Goodover said the loss to the state is 1.8 million--417,000 to the county and 200,000 to the alcohol rehabilitation program.

Rep. Sivertsen asked Mr. Lynch if he had a personal interest in this travesty he mentioned. Mr. Lynch said no.

Senator Peter R. Story, District #37, Emigrant, chief sponsor of SB 172, said this bill increases the proceeds from the gasoline dealer's license tax earmarked for snowmobile facilities and safety from .3 of one percent to .6 of one percent. This will enable them to expand their program. Two pamphlets telling of the program were given to the members and copies are attached. The money asked for is from actual gas used by snowmobilers so it is a matter of simple fairness. The snowmobilers do not get their part of the gas tax back but it goes into a fund for snowmobile facilities and safety programs. He mentioned he did not own a snowmobile or belong to an association.

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Ken Hoovestol, Montana Snowmobile Association, spoke next in support. A copy of his testimony is attached and part of the minutes. Mr. Hoovestol read a letter from Bob Didricksen, President of the Montana Snowmobile Association, which is attached and part of the minutes. He also read a letter in support from Everett E. Woodgerd, President of the Missoula Snowgoers, and a copy of this is also attached and part of the minutes.

Ron Aasheim, Snowmobile Project Coordinator, Parks Division, Department of Fish and Game, spoke next in support and a copy of his testimony is attached.

Robert Miller, Safety Man for Fish and Game, said they administer the portion of the money that relates to the safety program. He said they utilize workshops to stress safety. He said eight more ambulances would give a very good cover to the state in this area. Equipment would include films on safety education, and a slide series about Montana snowmobile safety. They would be able to purchase audio-visual equipment. He felt it would be good to have an annual safety week for snowmobiles.

Beth Fuselin, Flathead Valley Snowmobilers, agreed with all that has been said.

Ralph Holman, Montana Outfitters and Guides Association, spoke in opposition with a wish to amend. A copy of his testimony is attached.

Larry Tobiason, Montana Automobile Association, said he opposed any diversion of funds from the highway trust fund. The money is badly needed to repair and construct roads which is more important than grooming trails for the comfort of a few recreationists. About forty miles a year of highway is all that they can do and a little over 2000 miles of the highway needs reconstruction and over 400 bridges need repair. We can't continue to drain money from the highway trust account. If last time you reduced it from .6 to .3, I submit they haven't doubled in two years--imagine they are approximately the same.

Harold Paulsen, Highway Users, said they were not opposed to snowmobiling. He said while this is not a large amount they are concerned about the continuing diversion of funds from the highway trust fund. Building our interstate system may require more matching funds. This money can only be spent once.

Bill Cunningham, representing self, felt the allocation of the entire .6 of 1% of the gas tax to the snowmobile fund to the exclusion of any other form of recreation is inequitable. Nonmotorized recreationists don't get a penny even though they use gas to get to the trailhead, etc. Snowmobiles already get .3 of 1%--about \$129,000 a year. The additional .3 should go to a nonmechanized recreation fund. He read a statement from Will Selser, also representing self, and this statement is attached to the minutes.

Senator Story in closing answered his opponents. He said to the Highway Users that more matching funds are available than can be matched. The highway should be building the turnouts and rest stops that is planned with part of the snowmobile money. The trails and these facilities are also used by cross country skiers and visitors driving through Montana. As far as justifying .6 of 1%--the committee the past session said it was justified then but they questioned if it could all be used wisely. The present plans show that it can be. The wilderness objection is a misguided opposition to snowmobiles. He said they don't want to go into wilderness areas and with defined routes they could reduce the number of machines that are being unlawfully used in areas they shouldn't be. The use of snowmobiles may be leveling off--and then the amount of funding will level off, too. It balances. The snowmobilers use gas to get to their trail heads but that is not the gas in question here. This does support other forms of recreation--ambulances are used more to rescue downed skiers. Outdoor enthusiasts shouldn't be kicking each other and creating further polarization, but should be cooperating.

Rep. Fagg asked how much gas these people use. Mr. Aasheim said about three million gallons--30,000 snowmobiles and 100 gallons per machine and an average of 15 miles to a gallon. The national average is 1500 miles for a machine. Mr. Hoovestol felt the Montana average could be higher as the machines are not confined to a certain trail. Chairman Huennekens mentioned that at .6 of 1% it would be one snowmobile to 200 autos. He said the snowmobiles would have to travel about 8000 miles a year to have that proportion of gas.

Rep. Lien asked about registration. Mr. Hoovestol said about 25% not registered. As people see the better facilities and what the tax is going for there will be more registered. The biggest share of registration cost is property tax. We could take the industry shipment directly into the state of Montana and arrive at how many snowmobiles are in the state--22,000 actually registered. They do not need to be registered if used on private lands.

Rep. Lien asked what they were going to do for eastern Montana seeing as they were spending 100% of the money in western Montana. Mr. Aasheim said they had received no request from anyone east of Big Timber.

Rep. Fabrega asked if the snowmobiles being used on farms used tax exempt fuels. Mr. Hoovestol said some are and some aren't, but the fuels they are going on was for recreational purposes. Snowmobiles they have counted have been used at least once for recreational purposes. He said it is tough to get exact figures.

Rep. Fabrega mentioned if gas goes up and there is a shortage, the use of snowmobiles could greatly decrease. Mr. Hoovestol said they recognize that and if this should happen you could amend down in two years. But if gas goes up and there is a shortage it would have an effect on everything and since this is a percentage the amount of money would decrease as the total amount decreases. Rep. Fabrega said if the snowmobile use decreases by 25% or so they would be getting a disproportionate amount.

Rep. Story mentioned bicyclers do not pay anything for bicycle paths.

Senator Pat Regan, District #31, Billings, chief sponsor of SB 358, said this is a bill setting out a statutory procedure for the enactment of an initiative

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by the electors of a county imposing a tax on gasoline purchased within the county. This is not a bill where you are voting to increase somebody's taxes. It is a local option bill, a user's tax, which is equitable. Currently 32 counties levy their maximum for road levy and they will welcome this. It is equitable in that an elderly couple will pay little and a taxicab will pay proportionately more to repair the roads they travel on.

George D. Paul, Butte-Silver Box Cogovernment, spoke in support, and a copy of his testimony is attached to the minutes.

Walter Reisig, City of Billings, spoke in support and a copy of his testimony is attached.

Senator Tom Towe spoke in support. He said in his campaign this past fall there was strong feelings on this problem. Older people on fixed incomes bear the burden, suburbanites just outside the city don't pay. With this type of tax the use of the streets will be proportional to the amount of gas bought and so it will be a user's tax. Larger trucks are harder on the streets and will also buy more gas and pay more. He said in Billings now you can tell who the drunk drivers are--the ones who drive in a straight line!

Senator Hager said some opponents call this the "Billings Relief Bill"--and it is an opportunity to solve some of our problems. This would have to be voted on at an election. He felt the sales tax and the motel tax is not the way to go to fix streets. The people outside the city should have an opportunity to help pay for the streets also.

Ken Hoovestol, speaking for self, said he lives in Billings and has a chuck hole in front of his house. He said this is an opportunity for the local people to have the option to fix their own streets. He preferred this over the state wide tax.

Larry Tobiason, Montana Auto Association, wholeheartedly agreed with Senator Regan. They would rather Billings had this option than HB 63--but not both.

Harold Paulsen, Highway Users, said they supported this before the Senate Taxation Committee. They have no objection and feel it is a fair, user's tax, and they recognize the need for improvement of roads and streets. They feel the present status of HB 63 as amended would give 4 million to local use and that is more than needed.

S. Keith Anderson, Montana Taxpayers Association, spoke as an amender. He suggested the bill be amended to look at current city expenditures for streets so current funds cannot be diverted to other city expenditures. By so amending, gas tax revenue will result in additional expenditures for streets.

Dan Mizner, League of Cities and Towns, spoke in support. It gives the concept of local government making decisions. When they go to the public they are going to have to be responsible to the people in the counties and if there is going to be diverting of the funds there are steps like recall that can be used. This is an opportunity for people to do the job. Hope you will pass the bill without any amendments.

Mike Stephens, Montana Association of Counties, said they support the concept of local option, but oppose the bill. He said counties are not set up to issue refunds. Refunds come out of the county share and if in refunding money is lost it must come out of property tax. Allocation should be by interlocal agreement. He said they would rather support HB 63 which parallels this type of thing.

Senator Regan in closing reiterated this is a bill for the citizens to decide. People are not going to vote taxes on themselves unless they really need the service. It is clearly spelled out that this money must be used for streets. The idea of a shuttle off she couldn't buy. The question of refund is not difficult--talked to the county commissioner and the revenue department and the mechanism is in place and the distribution is by county. Good bill--highly supported in Senate.

Senator Regan was asked why the 2¢ tax--wouldn't it have been better to leave the amount off. She said it was a reasonable tax--let it work for two years and see how it goes. Many areas have a least a 2¢ differential in gas prices. Rep. Fagg suggested putting it on the ballot at different amounts and let the people choose. Sen. Regan said she would oppose that.

Senator Bob Brown, District #10, the chief sponsor of SB 415, said this bill would provide that a public contractor who has posted a performance bond need not furnish a bond to the Department of Revenue before he  
SENATE BILL            may be issued a special fuel license.

415            Larry Huss, Montana Contractors Association, said this eliminates a different requirement to pass the same test. He said they support the proposition.

There were no opponents and Senator Brown closed.

Senator Lloyd C. Lockrem, Jr., District #32, Billings, the chief sponsor of SB 416, was unable to be present so Larry Huss of the Montana Contractors Association introduced the bill.

SENATE BILL            Larry Huss said this bill would exempt diesel fuel used for construction, reconstruction, or improvement of highway or street appurtenances from the diesel fuel tax. All we are  
416            doing is eliminating the requirement for nonhighway related use to pay the tax. We are talking about such things as sewer pipes, water mains and not talking of diversions off highways. It is simply a clarification.

There were no opponents and Mr. Huss closed.

Chairman Huennekens asked how the amount used is determined. Mr. Huss said the Department of Highways makes periodic audits. Norris Nichols said they had pretty good control of this.

Rep. Johnson asked if this could be setting a precedent by exempting them from the tax. Mr. Huss said it is only clarifying that they are exempt. Everybody else involved with special fuels will be using the highway.

Senator Jean A. Turnage, District #13, Polson, chief sponsor of SB 459, said this was introduced with the support of the Motor Fuels Division.

It will make the administration of the act better. It  
SENATE BILL will tighten up on refunds that may not be deserved.  
459 Mr. Miller, Motor Fuels Division, who is responsible for  
this act is out of town and if information is desired of  
him perhaps the bill could be put in a subcommittee and he  
could be consulted on his return. The bill attempts to define bona fide  
agricultural use. Senator Turnage read from sections of the bill. A paper  
showing the recap of annual gas refunds for all occupations, prepared by the  
Department of Revenue, Motor Fuels Tax Division, and an application blank for  
applying for the gasoline tax refund was passed to the members and a copy is  
attached.

Norris Nichols, Motor Fuels Division, said this would allow agriculture users to estimate refundable gallonage and require all other users to maintain records in order to claim a refund. Most everyone is receiving more under option 1 than they are under the other two options.


There were no opponents.

Senator Turnage closed.

During questions from the committee it was mentioned the agricultural definition needs to be cleaned up.

Meeting adjourned at 11:05 a.m.

  
HERB HUEÑNEKENS, CHAIRMAN

  
Emelia A. Satre, Asst. Sec.