

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE

January 14, 1981

The meeting of the House Judiciary Committee was called to order at 8:00 am by Chairman Kerry Keyser, presiding. The following members were absent: Huennekens, Shelden, and Teague. Rep. Bennett was excused. Jim Lear, attorney of the Legislative Council, was present.

HOUSE BILL 93 REP. BENNETT, chief sponsor of the bill, was excused because of illness. At his request, Mike Meloy, Montana Trial Lawyers, presented the bill to committee members.

MELOY stated this bill amends a section of the law on judgements and damages to change the way interest is computed on judgement. The main reason this bill is being introduced is because of the increase in interest rates over the past several years. MELOY noted it is to the benefit of insurance companies to set money for a claim aside until judgement is passed. The money is then invested to receive the highest amount of interest. MELOY stated from the time of the law suit or claim gets to the insurance company the longer it is to get a settlement. MELOY noted this bill would not change the size of the settlement, but speed up the process.

There were no other proponents.

There were no opponents.

Committee members asked MELOY a few questions to clarify statements.

There was no further discussion on House Bill 93.

HOUSE BILL 99 REP. DAILY, chief sponsor, stated this bill allows a person to receive only one deferment of a sentence for a felony. Presently a person can have a felony conviction removed after the time is served. DAILY noted this bill is only meant for felony offenders and not misdemeanors.

There were no proponents.

There were no opponents.

REP. EUDAILY asked if this bill applied only to felonies within the wording of the bill.

JIM LEAR, Legislative Council, noted the bill applied only to felonies and misdemeanors were not legally mentioned in the bill.

REP. DAILY said he would not mind if this bill was worded into a mandatory bill if it was noted a person is not allowed to have two deferred sentences.

There was no further discussion on House Bill 99.

HOUSE BILL 110 REP. PAVLOVICH, chief sponsor of the bill, told committee members this bill is an act setting forth penalties for obtaining dangerous drugs. PAVLOVICH read to the committee the imprisonment sentences as noted in the bill.

Proponent FRANK DAVIS, Montana Pharmaceutical Association, is in favor of this bill. DAVIS gave committee members written testimony. EXHIBIT 1.

JOSEPH E. LEE, Chief Detective of Butte's Sheriff Department, supports this bill. LEE stated possession is a felony but fraudently obtaining a drug is only a misdemeanor. Nevada law for this type of offense is imprisonment of one to six years. Oregon is currently putting forth legislation which will require imprisonment of at least one year. LEE feels if Nevada and Oregon have this type of law, Montana should place it into effect also. LEE noted there is an increase of this type of crime in the state of Montana. This bill would help eliminate the drug problem.

There were no other proponents.

There were no opponents.

PAVLOVICH in closing, stated he hopes the legislature will help stop the drug problem by passing this bill.

REP. ANDERSON asked how many people have been convicted by this type of crime. LEE did not have the statistics available. The conviction rate of people arrested has been 100%. There have been no investigations so far.

REP. MATSKO asked if there were instances where one person or a group of people have other people obtain the drugs from the pharmacies. LEE noted of two cases where this has happened. One person was a hard core drug addict. The other case involved a couple who sent their children in to the pharmacy with a false prescription.

REP. EUDAILY inquired if the second conviction of five years was strick enough. PAVLOVICH stated they felt it was.

REP. EUDAILY asked if this type of bill would fit into a mandatory bill. PAVLOVICH noted it probably would.

REP. EUDAILY asked if doctors could place more security on prescription pads. DAVIS noted there is a problem with doctors leaving prescription pads in view of the public. If each prescription had a number printed on it and was in triplicate, the doctor keeping one copy, a copy to the pharmacist and the Board of Pharmacy, this problem could be detected as to false or legimate prescriptions.

REP. ANDERSON inquired how this would affect a minor. LEE stated it would affect a minor the same as an adult as it would be a felony offense. It would probably be handled through juvenile court.

REP. CONN asked who is the biggest offender. LEE noted adults were. CONN further asked what the effect would be of a minor who obtains drugs falsely for an adult. LEE stated the individual who wanted to obtain the drugs illegally would be responsible and not necessarily the minor. The minors in most cases are just bringing the prescription into the pharmacy and have no way of knowing if it is not a valid prescription.

LEE further noted to the committee a person who commits a misdemeanor is not required to go to a drug rehabilitation group, only persons who commit a felony are required to attend. The person who commits the misdemeanor as a choice of whether to go or not. Usually the person does not go.

REP. BROWN hopes this bill will be placed into the mandatory bill.

REP. KEEDY inquired about the schedule of different drugs. DAVIS noted that Schedule 1 drugs are not used in pharmacies. Schedule 1 drugs would be found in research laboratories and would be drugs like heroin and marijuana. Schedule 2 drugs would be the most dangerous drugs a pharmacy would carry. Schedule 5 drugs would be the least dangerous which DAVIS indicated would be like a type of aspirin.

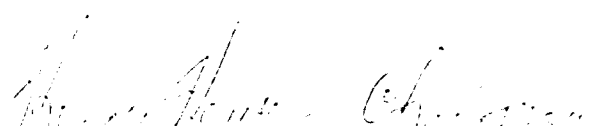
CHAIRMAN KEYSER asked if the sponsor of the bill would mind if this bill ended up in subcommittee for the possibility of including it into another bill. PAVLOVICH had no objection.

REP. IVERSON asked if in the event there was another way to obtain drugs besides in a pharmacy, would the sponsor object to putting Schedule 1 drugs worded into the bill. PAVLOVICH had no objection.

There was no further discussion on House Bill 110.

CHAIRMAN KEYSER noted the subcommittee would meet after the committee adjourned. An executive session is scheduled for Friday.

The meeting was adjourned at 8:55 am.
Respectfully submitted,


Kerry Keyser, Chairman

Maureen Richardson, Secretary

MONTANA STATE PHARMACEUTICAL ASSOCIATION

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January 14, 1981

My name is Frank Davis, I am a pharmacist. I represent the Montana State Pharmaceutical Association as their executive director. My home is in Great Falls, Montana.

I appear in support of HB 110 and would encourage a favorable report from this committee, on this bill, for the following reasons:

1. The present penalty for fraudulently obtaining a dangerous drug is "imprisonment in the county jail for a term not to exceed 6 months". 45-9-106 - MCA. It is reported to me by our pharmacist constituency that this light penalty is a deterrent to prosecution for this crime by county attorney's offices. It is further more not a sufficient penalty to act as a deterrent to the offender even when convicted.
2. In a two month period one pharmacy (the Medicine Shoppe) in Butte, Montana detected 14 cases of fraudulently presented prescriptions that he did not fill. The estimate from all pharmacies in Butte is that 3 to 5 fraudulent prescriptions per week may be filled in lieu of sufficient evidence to suspect fraud. The amount may vary in direct proportion to the availability of drugs on the street.
3. The improvement in copying machine reproductions has compounded the problem of fraud in prescriptions legitimately written as copies are now so good they are difficult to distinguish from the original.
4. As an example of another type of problem, a Missoula physician released an office employee who upon leaving took with her a pad of the physician's prescription blanks. Someone then cleverly forged prescriptions for Qualude, Percodan, Demerol etc. and six of these were filled before the fraud was detected. The forger became aware of the fact that he was being suspected when a pharmacist ask him to return for the prescription because he did not have the item in stock. He disappeared and to my knowledge has not been apprehended.

The seriousness of legitimate drug products escaping to street traffic, where they are abused and tend to spawn other problems is well documented. Drug abuse is responsible for many problems in our teenagers today. I hope you will do what you can to help solve the problem of fraudulent drugs escaping from their legitimate use into the illegal market.

Frank J. Davis, R. Ph.
Executive Director

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

LL 93
SOR Bennett

Date 1/14/81

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

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Date 1/14/81

FOR Daily, Harrington

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

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VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

LL 110

Date 1/13/81

SOR Pavlovich, Daly, Quillici, et al

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