

HOUSE BUSINESS AND INDUSTRY

January 15, 1981

SUMMARY OF HOUSE BILLS -

HOUSE BILL 31 -

Introduced by Rep. Kitselman, this new legislation creates the "Montana Business Licensing Coordination Act" that is intended to coordinate and unify procedures of application for and issuance of all business licenses. Objective is to improve the convenience and understanding of state regulations.

HOUSE BUSINESS AND INDUSTRY COMMITTEE

Rep. W. Jay Fabrega, Chairman, called the meeting to order in Room 129, Capitol Building, Helena, at 8:00 a.m., January 15, 1981. All members were present except Rep. Ellerd who was excused. Bill to be heard was HB 31.

HOUSE BILL 31 -

REP. LES KITSELMAN, House District #60, Yellowstone County, Billings, sponsor, said HB 31 would establish a coordinated licensing agency within the Department of Business Regulation. The objective of this bill is to improve the understanding of state regulations by businesses requiring licenses. Single vendor licensees would be excluded from this act.

BILL CHRISTIAN, Montana Association of Realtors, Helena, supports HB 31. There are many licenses necessary for a store. There is no place a person can go and ask for permits that he or she will have to abide by. Under HB 31 this will be done under the Department of Administration.

JANELLE FALLON, Montana Chamber of Commerce, Helena, said one-stop licensing or permitting is very attractive. She represents business and is aware of the many licenses necessary to do business, and would like to see this cleared up. She is concerned over putting it all in one agency - would rather go and get the license from another agency if they have to have it. She talked to EQC Council and they are not running into any problems. Generally supports this concept.

OPPONENTS -

JOHN NORTH, Department of State Lands, Helena, is the governor's representative on EQC. He feels the definition of "master license" is overbroad and doesn't apply to an environmental license. A one-stop permitting bill would not be a coordinating licensing bureau, but rather a coordinator in the office of the governor. This would include licenses that a state lessee would have to get on school lands under Title 77. He recommends a coordinator rather than having a whole new licensing department. Such a bill has been introduced.

QUESTIONS -

Rep. Kitselman - This pertains to those on wholesale and retail levels. He has no objection to the environmental agency being excluded from this. Could include titles 75-76-82-77 as exclusions.

Rep. O'Hara - Why would a coordinator be the best? Mr. North - The Environmental Quality Council felt that another layer of bureaucracy was unnecessary and felt a coordinator would be able to better put them in touch with the proper agencies.

Rep. Ellison - The problem is that a person will go to one agency for a license and then find out he has to have two or three more. Mr. North - A coordinator would advise what all of the necessary licenses would be at the beginning.

Rep. Robbins - A person would have to go to about five different agencies to get them. Mr. North - A majority of the people in the industry would prefer that rather than deal with another layer of government.

1/15/81

Page 2

Rep. Vincent - Is it your opinion that this bill can be implemented within the budget as currently set? Mr. North - Felt it necessary to put an appropriation in to accompany the approach for his bill. Rep. Kitselman - This is self-supporting. Section 9 sets out that there would be a \$5 fee for administration plus the total of all other licenses necessary, plus 5% of the total.

Rep. Vincent - How quickly do you think this fee would get it going? Mr. North - Would go into effect July 1, 1982. Rep. Kitselman - There is a subsection allowing for the department to certify those licenses and coordinate expiration dates. Rep. Vincent - It would be 1982 before any revenue. It is difficult to develop procedures without spending more. Within the department, does the department have enough money to develop this before revenue comes in? After development, there would be some income. Rep. Kitselman - There would be no additional cost to the agencies. Most of the plans are in motion now, it is just a matter of coordinating them.

Rep. Pavlovich - Instead of many licenses, a person could buy one? Rep. Kitselman - Yes. Rep. O'Hara - The cost for each license would be the same as a total. This would be a state license.

Rep. Meyer - If a business needs three or four different types of licenses, and somehow the department omits one of them, what would happen then? It would come back on the department.

Rep. Kessler - Overall you figure this will cost the business man less? Rep. Kitselman - Yes, but it won't cost the state any more. It would be left up to the coordinator to establish the costs. Mr. North - They have not reviewed the cost, but have simply reviewed it with the environmental area.

Rep. Metcalf - How would it be cheaper for a businessman if he has to pay the same total plus 5%? Rep. Kitselman - Through not having to go to many agencies, saves time.

Rep. Vincent - Would the coordinator have the authority to change expiration dates? Rep. Kitselman - Yes. Rep. Vincent - Are some of those dates set by statute? If so, this would need more explicit language allowing a change.

Rep. Ellison - Wouldn't this be a duplication where certain conditions are already set up for some grocery stores selling wine and beer? Rep. Kitselman - He would go to the coordinator.

Rep. Fabrega - Is there any place you can go to get a list of what licenses are available? Rep. Kitselman - No. You have to look for what are required under various titles.

Rep. Kitselman closed urging the committee to look at HB 31 strongly. He has no objection to taking out environmental licenses. He has tried to make it self-supporting.

Representatives from the Insurance Commissioner's office were requested by the committee to provide the committee with insurance information.

The Insurance Department will receive \$5,000 in revenue from the state for the fiscal year ending June 30. The revenue brought into the office was over \$15 million. See EXHIBIT A presented to the committee by Ms. Jo Driscoll.

1/15/81

Page 3

JO DRISCOLL, Chief Deputy Insurance Commissioner, said Title 33 contains the insurance laws for the state of Montana. They have 20 clerical help in the office, and could use more help. They are trying to cut down some details in order to cut down red tape.

All companies have to file and their office is constantly working to keep abreast of those companies who are having problems. They have implemented over \$15,000 in fines. All businesses in the state must have a certificate to do business in the state. Surplus lines have been asked to form a surplus lines agency. They know what is available and what is not available. If not available, can go into the surplus market. They do not have to go to an admitted company.

Outside insurance companies do not have the benefit of Montana's laws. Montana Power purchases its own insurance and sent \$18,000 worth of insurance premiums.

Rep. Fabrega - If an insurance company wants to advertise insurance in the state, then they come under the laws of the state? Ms. Driscoll - They must be licensed to advertise. You can go out as an individual and buy insurance, but have to pay the premium tax of 2 3/4% and there is additional for fire insurance which is a total of 4% on some insurance.

Rep. Fabrega - Does Blue Cross pay tax? Ms. Driscoll - No. They are considered a nonprofit health insurance company and thereby have to pay no tax. Chapter 30 is the only authority over nonprofit health insurance companies. All insurance companies have to file insurance forms for which a fee is paid. They file a form and use it, then the office can object and may get them corrected, but office authority is very limited.

People don't need several insurance policies. This will only increase the cost of insurance to all of us. They do not regulate rates in Montana - there is open competition. Health and life insurance rates are not listed. They file and are required to use the rates on file, but they really only have the authority to say if it is adequate. Competition does exist in all lines in the state. They do regulate every aspect of insurance, licensing, collection of premiums, taxes, consumer complaints. They try to apprise people about insurance, and have a toll free number 800-332-6148. They go around the state and meet people and talk to senior citizen groups.

They make sure conditions of an insurance policy are complied with.

Rep. Ellison - What about double coverage? Ms. Driscoll - Two groups won't pay for your coverage. Some policies will say whether you have other insurance or not. Insurance policies are legal instruments. Health insurance does not coordinate with automobile insurance.

Rep. Robbins - Why pay the \$60 to an insurance company as the state does when someone already has insurance?

Rep. Fabrega - The primary company will pay first and that is the first policy that you have.

1/15/81

Page 4

Ms. Driscoll - This office protects both insurance companies and those who are insured. They have revoked licenses. Fraternal organizations do not pay any taxes, nor do farm mutuals.

Rep. Vincent - Feels it is tremendous that the office has made such a commitment of service to the public. Insurance can be very confusing. Do laws in the state of domicile affect the insurance industry in the state of Montana? Ms. Driscoll - Laws of each state are primarily aimed at the domestic companies. They are trying to protect people and are trying to bring people into the state. Farmers Insurance Group will form a domestic in our state. There are very few domestics in the state. We are trying to get clean industry into the state.

They require special deposits for a domestic company in order to pay for any insolvency. Speculative investments are not permitted in admitted assets. They are required by law to post certain minimums. A bank official and someone from their office have authority over deposits.

Agents have to have a license, and there is only one. A company has to sponsor an agent.

BRUCE LARSON, Securities Division, said they register all the securities that are sold in the state of Montana. Each is registered in various ways. Full disclosure has to be made so as to know whether you want to invest or not. He feels this is a just and equitable type of regulation to be sure this is the type of security that should be placed before Montana investors.

If the promoter is putting up his share of risk to balance your share of the risk, that is fine. A salesman can get just so much. They register all of the broker dealers. Eighty percent of the attorney's time is spent on investigations of unregistered securities in trying to provide for safe investments.

Rep. Fabrega - Is there a certificate supplied by your office? Mr. Larson - The state of Montana is joining with all other jurisdictions to form an organization that will register all salesmen of securities. DAD will only register his salesmen in Washington, D.C., with the National Association of Securities, and that is the coordinating office for all salesmen. They will file in one place for 60 jurisdictions. This office will not be able to issue individual licenses as is done today. Brokerage firms will issue permits, a salesman will have a business card but it will state that he is a registered representative in the state of Montana. This will save the state and the industry a great deal of money. They will not have to maintain all of those salesmen's files. They will maintain a rolodex file.

The American Securities Association will furnish Montana with all of the necessary equipment and line time for the computers to do this free. One small area, however, is that the indicated line time given free is limited. That may cost \$3,000 in a biennium. It takes \$50-60,000 worth of equipment. He didn't know what the savings will be.

One examination will be necessary now that will provide a means of licensing all over the nation. The exam will be taken on a computer and he will know right away if he has passed. He will be photographed, his finger prints taken, and his background very thoroly checked before he can sell securities.

1/15/81

Page 5

Rep. Manning - How many dollars have you saved? Mr. Tucker - Since 1977 they have had about \$1.5 million returned to investors. Approximately \$70,000 in addition was collected from registered and licensed individuals in fines. Since having an attorney, the total as of July 1 was approximately \$2,300,000. Mr. Larson is the attorney.

Rep. Fabrega - You cannot offer to more than 10 people without having to go through your office? Mr. Tucker - The exception is meant for the Ma and Pa grocery stores. The store incorporates because of the family, and they issue shares to their family. You may make an offer to no more than 10 persons in any 12 consecutive months providing no fees are charged for soliciting, and providing buyers are buying for investment and not for resale. If one person sells to a neighbor, that blows the exception. This would be fraud and they will pay that money back by whatever means. 3A-11 shows exceptions to federal statutes requirements.

Rep. Fabrega - What is the difference between a regular corporation and a Subchapter S corporation? Mr. Tucker - Most common stock is the same. They come within the same regulations. Under Subchapter S there can be no more than 15. As long as they stay under 10 and no commission is paid, they may still have violated some rules. They must tell everything that they know about the money and what is going to be done with it. No prospectus is given out. They force full disclosure to protect the person going out to get the money. There is no problem with gifts of stock. Stock cannot be given for services to be performed, it can only be given for services already performed.

Rep. Jensen - Would limited partnership organizations fall under your division? Mr. Tucker - Yes. Any risk capital, any money that you go to another person for as a venture, even a note or to borrow money from that person, that you get like that at all to further any project that you might have, is a security. There are various exceptions, but on the surface a person could become criminally liable under the securities act unwittingly. You have to file when a corporation is set up. Limited partnerships, industrial revenue bonds, stocks, bonds, evidence of indebtedness, investment contracts, anything that deals with risk capital, is a security. A prospectus is necessary. To not tell the people something is a fraud. Some could be exempt from registration, but would not be exempt from federal or Montana Securities Acts.

There has been a great deal of discussion on whether group investments have to be registered. You won't have trouble unless someone comes in and objects. No one in the group must do anything for the investment group.

The toll free number of 800-332-6148 is for the insurance department and the securities department, for the whole state auditor's office.

Meeting adjourned at 10:15 a.m.

REP. W. JAY FABREGA, CHAIRMAN

Josephine Lahti, Secretary

STATE OF MONTANA
E. V. "Sonny" Omholt
State Auditor
Commissioner of Insurance
Helena, Montana

INSURANCE DEPARTMENT COLLECTIONS FOR FISCAL YEAR ENDING JUNE 30TH:

AGT., ETC., LIC. FEES	CO. FEES	FIRE MARSHALL TAX	FIRE- MEN'S PENS. TAX	OTHER THAN LIFE PREMIUM TAX	LIFE & DISABILITY PREMIUM TAX	RETAIL- ATION TAX	HEALTH SER. CORP. FEES & TAX	TOTAL	# OF CO. AUTH. IN MT.	DEPT. OPER- ATING EXP.	% OF OPER. EXP. TO REVENUE
1962 \$101,165	\$ 48,302	\$ 27,512	\$	\$1,182,296	\$1,086,353	\$39,937	\$	\$ 2,485,565	563	N/A	N/A
1963 120,955	43,225	27,313		1,290,876	1,154,144	40,458		2,676,971	564	N/A	N/A
1964 91,153	59,897	27,818		1,331,861	1,303,426	40,083		2,854,238	582	\$ 69,168	2.4
1965 89,746	47,196	28,722		1,377,099	1,388,658	45,818		2,977,239	620	63,883	2.2
1966 90,004	55,246	29,881		1,480,737	1,460,357	50,828		3,167,053	648	75,499	2.4
1967 89,444	51,316	31,860		1,605,392	1,583,304	54,636		3,415,952	651	91,338	2.7
1968 91,092	56,418	29,972		1,643,372	1,643,098	53,555		3,517,507	707	98,028	2.8
1969 91,037	56,537	34,902		1,786,786	1,774,334	79,021		3,822,617	756	93,376	2.4
1970 99,760	253,806	66,952		2,239,370	2,245,201	26,611		4,931,700	805	104,101	2.3
1971 102,890	261,364	72,487		2,483,581	2,445,508	17,595		5,383,425	823	112,156	2.1
1972 106,524	267,131	129,231		2,921,201	2,665,545	26,119		6,115,751	842	137,565	2.3
1973 116,202	292,854	147,829		3,221,340	3,005,581	28,667		6,812,473	897	142,711	2.1
1974 126,619	301,538	158,521		3,519,525	3,222,842	37,878		7,366,923	945	239,480	3.3
1975 279,201	319,064	182,858		4,013,822	3,487,943	40,329		8,323,217	955	366,842	4.4
1976 274,750	309,253	191,133	381,684	4,591,501	3,690,125	44,835		9,483,281	969	338,409	3.6
1977 268,138	311,295	236,459	472,924	5,804,292	4,054,309	67,425	24,809	11,239,651	956	351,641	3.1
1978 344,201	324,678	274,848	549,670	6,541,861	4,513,215	84,519	23,330	12,656,322	985	400,108	3.2
1979 556,908	338,501	310,103	619,082	7,380,643	5,059,252	77,113	25,706	14,367,308	996	394,904	2.7
1980 417,808	336,024	342,138	684,276	8,049,699	5,232,148	88,253	26,686	15,177,033*	1016**	429,232	2.8

*611% of 1962

**180% of 1962

1916 Actual Companies authorized at 6/30/80 (includes Health Service Corporations, Motor Clubs, Fraternal, Farm Mutuals etc.)

Proposed Amendment to House Bill 31

Page 2, line 8.

Following: "activity."

Insert: "License does not include licenses or registrations issued under Title 30, chapter 10, parts 1 through 3, Title 33, or Title 37. Such licenses are excluded from the coverage of [this act]."

Statement of Intent - LC 418 - *HB 31*

A statement of intent is required for this bill as it grants rule-making authority to the department of business regulation in order to establish a coordinated procedure for business licensing. It is the legislature's intent that the department's rule remove as many burdens as possible from the license applicant, and to streamline the procedure for applying for a license. The department shall prescribe the form of the application for a master license and the form of the master license.

Section 6 of the bill allows the department to designate the licenses that may be issued through a master license. This is intended to allow the department to gradually expand the types of businesses which may use the coordinated licensing procedure. It is intended that the coordinated licensing procedure eventually include as many types of businesses as feasible.