

BUSINESS AND INDUSTRY

January 21, 1981

SUMMARIES FOR

HOUSE BILL 175 -

Introduced by Rep. Yardley, reduces the number of residents required to qualify for each all-beverage retail license, under the state liquor quotas, on a periodically diminishing basis. Now prior licenses are allowed in each city of 3,000 plus one for each additional 1,500 residents. In calendar 1982, the number of inhabitants to qualify for each license in excess of the basic five shall be 1,400; in 1983, the qualifying population shall be 1,300; in 1984, required for each additional license shall be 1,200 residents; in 1985, the qualifying population for each additional license shall be 1,100, and thereafter the figure shall be 1,000. The bill makes no change in quotas requirements for towns of less than 3,000.

HOUSE BILL 185 -

Introduced by Rep. Kanduch and others, provides that a person who delays or interferes with industrial or commercial development without good cause is liable for all damages sustained and may be enjoined from continuing the action. The person may also be liable for a fine of up to \$1,000 or imprisonment up to 30 days or both.

HOUSE BILL 206 -

Introduced by Rep. Keedy provides that the amount of the insurance in a policy shall be considered to be the true value of property and the true amount of the loss and measure of damages when the property is completely destroyed by tornado or lightning. The amendment deletes fire from the list of causes which will result in determination of policy value as full value of the property.

## HOUSE BUSINESS AND INDUSTRY COMMITTEE

Rep. W. Jay Fabrega, Chairman, called the B&I committee to order on January 21, 1981, in room 129, Capitol Building, at 8:00 a.m. All members were present. Bills to be heard were HBS 175, 185, 206.

## HOUSE BILL 206 -

REP. MICHAEL KEEDY, House District #18, Flathead County, sponsor, said HB 206 deals with the requirement that the amount of insurance coverage be considered the value of improvements upon real property in case of loss. Similar measures have been adopted by 10 states. It would preclude an insurance company from agreeing that a payment on a loss claim should be limited if the property is wholly destroyed. There is a presumption that the face amount of the insurance policy is the true value of the property without regard as to whether the property were overinsured or not, and this proviso is applicable.

It simply strikes the word "fire". It would limit the value of the policy to total losses by wind damage or lightning. The reason for a statute of this kind is to protect the policyholder whose building had been overinsured and to preclude any attempt on the part of the insurance company to pay only what it was worth. It would require inspection and evaluation of the property before insuring.

The question of when a structure is totally destroyed might induce an insurance company to quibble about whether it was totally lost. A person could insure his buildings several times over with perhaps a series of agents on behalf of several companies, but because he may have a multiple of insurance companies, he could recover several times over. This is dealing with the defense that an insurance company could set up in case of fraud. There is a fine line between fraud. It takes out of the value policy statute the one destructive element to cut down on the intent of injuring one's own property when it is overinsured.

## OPPONENTS -

VALENCIA LANE, Montana Insurance Department attorney, opposes HB 206. This bill would change a section of the insurance code which the department has had problems with in the past. This would only increase the problems. She thinks the law should be there for the whole public, and not be changed because a few would take advantage of it. An insurance company should not be allowed to overvalue, and when the property is overvalued, and when it is totally destroyed they go in and say they are not going to allow you what it was insured for by saying it was overinsured. She would amend it to cover all perils. This value property law would take effect, and would say that when the property is destroyed, the insurance company could say it was overinsured.

She showed some pictures of a loss where the basement was still somewhat intact. She reminded the people of the value property law. The

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insurance company claimed this was not wholly destroyed, and since it was not totally destroyed, the value policy law would not comply. After the insurance department became involved, \$10,000 more was paid the owners. If you take the word "fire" out of this policy, and it is wholly destroyed, you could be saying it was not wholly destroyed. This would not be in the best interest of the insurance buying public. HB 206 would essentially be gutting the statute. There are very few in Montana destroyed by tornado and lightning.

NORMA SEIFFERT, Deputy Commissioner, headed up the policy insurance division. This would be taking the teeth right out of the law. It would just allow the companies to charge whatever they wanted without having any responsibility to underwrite. Other perils are very marginal. It is very hard to tell when it is wholly destroyed; when a building has lost its identity is when it is considered totally lost. Over a period of years they have been insuring on the basis of replacement cost. This would allow the insurance companies to charge what they want and pay what they want.

#### QUESTIONS -

Rep. Metcalf - Do you have any figures on estimates of the number of houses that are probably underinsured rather than overinsured? Ms. Lane said no.

Rep. Ellison - Are all home policies replacement value? What is the difference between actual cash value and market value policies? Ms. Seiffert - If you insure to 80% of value on actual cash value, you get back into your market value.

Rep. Pavlovich - When a fire is caused by lightning, even if the statute is amended, the value policy would apply? Rep. Keedy - Could change to wind damage.

Rep. Meyer - What about an electrical fire in a home? Rep. Keedy - The insurance company would pay the actual value of the loss in the case of where the building had been overinsured. Rep. Meyer - How do you come up with the value of this home? Rep. Keedy - You can get a value when figuring what it would cost him to replace it. Inflation has caused a raise in the value.

Rep. Ellison - How do you determine the value after a home is burned down? Rep. Keedy - It would be much easier to determine the value when it is still standing. Rep. Ellison - What do you consider the prime reason for overinsurance? Rep. Keedy - A company would be permitted to overinsure just to get the money. Where it is overinsured rather than underinsured, the case of the possibility of fraud is very high.

Rep. Fabrega - The reason for removing 'fire' is to prevent overinsuring and them committing arson?

Rep. Andreason - What is to prevent a company from very, very strongly underrating the damage that is caused in a house and paying less than the loss was? Rep. Keedy - The question of how much damage is really caused is a problem.

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Rep. Keedy closed. The problem of underinsurance in an age of run-away inflation is much greater than overinsurance. Instances of overinsurance tend to fall into instances where overinsurance causes people to attempt to commit arson and fraud. It is an inducement to fraud. In any case of laws the company would be liable to pay up to the full amount of the insurance.

## HOUSE BILL 185 -

REP. JOE KANDUCH, House District #89, Anaconda, chief sponsor, explained HB 185 would make it unlawful to interfere with commercial or industrial operations in Montana without good cause. See EXHIBIT A.

DAVID KASTEN, Rancher/Farmer, Brockway, McCone County, supports HB 185. See EXHIBIT B.

AL KINGTON, Helena, favors HB 185. See EXHIBIT C.

CLYDE SMITH, Montana Logging Association, Kalispell, MT., supports HB 185. It is unacceptable that an organizational group can be allowed to curtail their business of logging. For anyone to do this without just cause we should be allowed some compensation.

PETER JACKSON, Harrison, MT., testifying as a rancher, strongly supports the policy being directed in this bill. It is long overdue. It points itself towards some of the things that hits you on an everyday basis. A quick statement on three ways the economic environment is suffering. Where are we going? There is a need for policy. It's the things that you don't get done that hurt you. They asked for consideration of enlarging a lake in Madison County for stream storage as to cost and a feasibility study and this was done. The request was in a full year before the Legislature started, but they got the report back a week before the Legislature. They received a statement saying it cost too much as it was over \$1 million. Then he'll build your project for \$480,000 and give you a construction bond. What would you build it for now? It would cost \$600,000 because of inflation and time. Somewhere there was a lot of lag time and we don't get it done in time. Need some kind of policy.

JAMES D. MOCKLER, Montana Coal Council, Butte, MT, supports this bill, but it does not really address the issue that needs addressing. If you sue your neighbor, you can collect for any damages. If you sue a corporation on a frivolous suit, you could lose and be charged. No damages are awarded on frivolous suits. There is no recourse by the general public who would be damaged. He would like to see the bill go further, but it does address the concept.

ALICE FRYSLIE, Montana Farmers Union, Montana Stockgrowers, Montana NFO, WIFE, Farm Bureau, supports the concept as it is written, but it does not address those needs. She requested no action be taken on the bill today so the agricultural people can go to Rep. Kanduch and address the needs and work them out. See further testimony on her Witness Sheet.

Other proponents were PAT UNDERWOOD, Montana Farm Bureau, Bozeman, TERRY MURPHY, Montana Farmers Union, JO BRUNNER, W.I.F.E., Power. (See their Witness Sheets)

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LARRY HUSS, Attorney for the Montana Contractors' Association, Helena, strongly supports HB 185 because the construction industry is the first line that is hit. Contracting in Montana is not in a very healthy state. The point of federal and Montana laws cut in both ways. You can proceed in this fashion to try and delay a project without ever getting to the real fact as to whether a plant or project should go forward. Decides things on the merits, not on the process.

F.H. "BUCK" BOLES, Montana Chamber of Commerce, Helena, said it is a well-known tactic of obstructionists to get people to give up. It affects large and small projects. Recommends do pass HB 185.

DON ALLEN, Montana Petroleum Association, spoke in favor of this legislation. He is not sure that the language is what we should be looking at - the concept is what should be looked at. The petroleum industry has certainly been frustrated in attempting to solve the problems. Leases had been pending on 720,000 acres of BLM land, and because of environmental restrictions, the leases were not made. There have been delays and delays on top of delays for 5 1/2 years basically because those administering the laws were in opposition to those interests. This should be looked at as a way of doing away with such obstruction.

BILL HAND, Montana Mining Association, supports this legislation. It needs to be done as quickly as possible.

GORDON DARLINTON, Three Forks, representing the Agricultural Preservation Association, Park County Legislative Association, Sweetgrass County Preservation Association, Stillwater County Agricultural Legislative Association, supports the concept of the bill. Wondered if some of the many people at this hearing have already delayed projects. The bill says that we are going to cause harm to you only if you cause harm to me. He belongs to the sheep industry, and you know what has happened when environmentalists stopped all methods of control. He feels they should have to answer if their answers are not based on fact and good reason. Deer were more important than people. The Supreme Court settled this. Irrigators were stopped because water washed fertilizers into the streams, grazing permits were cut because of grizzly bear or gophers. They should definitely be stopped if harming others. He requested this bill be discussed on the House floor with a Do Pass recommendation.

#### OPPONENTS -

J. D. LYNCH, Montana State Building Trade, Butte, applauds the intent and the concept of this bill. Construction trades have long opposed those that delayed construction jobs in Montana. Of the 12 who have just spoke, there was not a single interest. Every attorney said this bill would do a different thing. There are enough questions here, not only to determine what is good cause, but <sup>on</sup> the bill itself and on what it does. It is a most broad bill. Through the courts they have been doing it, but certainly they want jobs also. Would hope the committee looks at the bill and if it is as broad and all encompassing as it seems, would have to oppose.

JAMES MURRY, Executive Secretary of the AFL-CIO, is concerned about possible ramifications of this bill. Purports job opportunities, but he has grave doubts it would accomplish this goal. Anyone with good cause could be jailed or fined or workers have the right to strike, but it is

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not unusual for a pay strike to be decided by the national. That option is open. If a strike were later declared illegal, the workers could be jailed or fined. If workers after a strike could be jailed or fined, that would be unconstitutional. HB 185 would cause many, many more problems that it would solve.

EUGENE FENDERSON, Laborers Union #254, Helena, put a picket line up against a local contractor and the contractor felt it was an illegal strike and filed charges. The union won that one. Two weeks later he filed a different charge with the national labor relations board. Now they are 5 weeks into that strike. They lost the last one. In all three picketings on that job site, he was legally picketing the site and had to go before the national labor relations board as to whether it was legal. Section 2 becomes real questionable as to whether they would be in jail. It would have to come into federal jurisdiction. It has some real problems.

JOY BRUCK, League of Women Voters, Helena, is concerned with the term "good cause", as to how it would be interpreted, and about citizen input and participation. Would be fearful of what would happen. There are already means of dealing with wrongdoings in this area. Oppose the bill. See her Witness Sheet.

JERRY DRISCOLL, Laborer's Union, Local #98, Billings, said the only people who would be affected would be unions, and for that reason, he would oppose this bill.

JERRY KECK, American Civil Liberties Union, Helena, opposes HB 185.

RITA SHEEHY, registered lobbyist, member of the Board of Health, has been involved in such processes. They take too long. There should be a speedup of the process. She hopes the Legislature addresses that problem. This bill does not do that. It adds to the delay because there is one more court process that goes right up to the top. The delays are not all caused by one side - Colstrip delays were caused by both sides. This will clog up the courts with frivolous cases. Do not pass.

MIKE MALES, Environmental Information Center, Helena, opposes HB 185. Title 27, Chapter 19 explains current Montana law on obtaining injunctions; 27-19-306 says the court may require security. He believes existing law takes care of HB 185. Would be adding another layer of litigation. See his Witness Sheet.

Other opponents are MITCH MIHAILOVICH, Montana State Building Trades, Butte (see his Witness Sheet); and JIM JENSEN, LISCA, Helena; and JIM MOCABEE, Bozeman. JAMES D. ZION, General Counsel for the American Civil Liberties Union, opposes. See EXHIBIT D.

#### QUESTIONS -

Rep. Vincent - The law cuts both ways to delay? You would be subject to the laws? Mr. Huss - Yes. Rep. Vincent - Would water in your basement be good cause? Mr. Darlington - If you had been in the area for many years and irrigation had been going on there for 20 years, when they were advised not to build there, but they did, that would be up to the courts.

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Rep. Vincent - Is there anyone who testified who could explain how this law would do anything for someone when someone else had acted beyond their rights? Ms. Fryslie - A rancher was trucking a load of cattle and was stopped for an inspection. He was held for 12 hours. When a load of cattle is on the truck for 12 hours, there is shrinkage, danger of accidents. This was caused by undue harrassment. That is hindering economic development when it is delaying, and causing loss of income.

Rep. Vincent - When would this apply beyond this instance? Mr. Murry - The only case that they can find is the testimony by the trade unions here today. It would apply where we set out originally and it had not been a lawful objective. There are already laws and remedies that would cover that. Mr. Fenderson - In case of a wildcat contractor striking, you can get satisfaction from the courts.

Rep. Harper - It is a well-known tactic for obstructionists to delay until the project is dropped. Statewide hearings have to be held. Why do you believe that you or your organization should have a right to delay the process of the ambient air quality process? Condemnation of delay for delay's sake. Mr. Boles - The bill doesn't address rule-making. It just addresses construction projects. The rule-making process cannot be compared.

Rep. Harper - Where did the bill come from? Who wrote the bill? Rep. Kanduch - WETA had a hand in it. Mr. Bill Kirkpatrick wrote the bill with labor having a hand in it. Operating engineers put the wording into the bill that a good cause is labor management.

Rep. Bergene - Do you know of a specific case? Rep. Kanduch - Had a logging operation stopped because of necessity of putting in culverts. Lots of water washed out the culverts, and they couldn't take anybody in and had to stop all operations until the water went down and cleared up. All they had to do was go back and put in bigger culverts.

Rep. Kitselman - Northern Plains tied up the coal people. A petition was filed by the land owners in the area. It was following the procedure and the coal companies or the railroad have transferred the ore. She thinks this bill did not address that particular situation.

Rep. Pavlovich - Would this bill take away your rights? Mr. Males - Thinks it is going to be impossible to say what the court would say.

Rep. Vincent - In a district where there could be problems caused by a plant because of air pollution, and he was circulating a petition, could that be seen as being an obstructionist? Rep. Kanduch - You were asked to represent these people. If somebody would have objected to that and taken it to court, there is no difference than you taking an industry to court to decide if they should be stopped. Rep. Vincent - If a City Commissioner happens to live in my district and objects, by his action I could be in jail? Rep. Kanduch - This bill would take whoever objected. Anyone person can get an injunction and stop a project for six months. If you do it without good cause, and we take you to court, and the judge says you have good cause, that is different. If you don't have good cause, you should

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be liable for recourse by someone else.

Rep. Fabrega - You take someone to court to determine if he had good cause, and if he had good cause, you could take him to court because he had good cause. At what point does the chain break?

Rep. Kitselman - The first two times did you move your pickets around? Mr. Fenderson - The employer moved his gates. Was he rewarded remuneration for the cause in the third case or you just pulled the pickets in the third instance at the direction of the national labor relations. Did you cause him any money expense and delay? Mr. Fenderson - I imagine a great deal. It always becomes a question of how much liability there was.

Rep. Wallin - Big Sky Yellowstone - there is a prime example of what Rep. Kanduch is trying to get at. He thinks it is a multi-million dollar project that has been held up by environmental groups, one of which was to protect the grizzly bear habitat. It is generally agreed that this would have been built about three years ago. The smaller share-owners could not sit and wait, and one of the shareholders acquired it and have just been in a great big lawsuit. This would probably be the kind of thing this bill would provide a remedy for. Unfortunately, the buyer is back as a laborer because he could not afford to wait any longer. He thinks a bill to address a situation like that is necessary, and would like to get the history and see if all those things are covered in present law.

Rep. Meyer - You said some of your people would be jailed, that they would be subject to fine and jail under the penalties of the act if the situation arose. It appeared to Mr. Murry that would be the case. Rep. Meyer - Section 2 says they would go to court.

Rep. Ellerd - Referring to the Ski Yellowstone project said that was the worst witch hunt in this state. That man had his life's earnings in a dream of building a very, very great ski resort, but because of delays he went completely broke. Somebody should have some recourse on environmentalists. Rep. Vincent - The fact of the matter is that this bill would have no effect on it at all. Rep. Ellerd - Could it be amended so that people like this could be protected?

Rep. Kanduch closed. This bill specifically includes any management - he doesn't think labor has anything to worry about. A timber sale was let out and all the survey was done, and somebody saw a grizzly bear run across the road and the whole job was stopped. If there is any discrimination, it will be without this bill. Why should the courts be good enough and yet not be trusted to determine what is "good cause?" He had no objection to holding it in committee to try to get amendments into this bill to make it suit them and help the economy of this country.

HOUSE BILL 175 -

REP. DAN YARDLEY, House District #74, Park County, sponsor, said HB 175 would be explained by Leon Messerly, Director of the Liquor Division of the Department of Revenue; HB 175 involves liquor quota system.



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The value of licenses established under the quota system varies from place to place. Values have increased immensely because of the grandfather clause, \$65,000 for a license, a piece of paper; some sell in excess of \$100,000. Legislatures in the past have tried to get out of the liquor business and make it more acceptable, and have adopted other types of licenses to modify existing quota system. In a sense, as a license increases in value you are stifling the idea of new business. The expense of new business today is a huge expense of buying a license investment in your business if you want an all-beverage license. In some areas there is a surplus and in other areas, where the population has grown, costs of licenses are in excess of \$100,000.

HB 175 attempts to adjust the population requirements. Currently, under present law, a city of 3,000 or more is entitled to a license and for each additional 1,500 persons the city gains one additional license. The bill changes this to allow a new license for every 1,400 people in 1981, and down to 1,000 persons instead of 1,500 by 1986.

Because of the grandfather clause, even if reduced to 1,000 persons, EXHIBIT E shows the result of HB 175 in 1986. Under HB 175 only two cities would be affected - Billings would gain 10 licenses, Bozeman would gain 5 and it would not affect any other place in Montana. He doesn't want to deprive anybody of their license or have anyone lose the cost of their license. This would allow more licenses to be issued. Licenses are issued for cities and the 5 miles around the city, but they include only the city population to be used for the population figure.

Even with a surplus you have a valuation. He wants to put a cap on those areas where valuation is extreme.

#### OPPONENTS -

PHIL STROPE, Montana Tavern Association, Helena, represents 2/3 of the taverns in the state. They oppose HB 175. Those who hold liquor licenses are in a sense burdened with the law. They came into it by way of purchase. He doesn't think there is a holdover grandfather license. Thirty licenses a month are changing hands indicating more and more are changing hands. People said they wanted regulation of the sale of liquor. Stood in opposition to them putting in jeopardy the capital asset that they have. He thinks those who own their licenses have the same right to have their property protected. They are vested rights, and these people stand in the same position as those who acquired a property right for their business, such as grazing permits. These licenses have value for a very worthwhile purpose because if the license is abused, the state has the power to take it away. This industry lives with the constraints that the Legislature puts on them.

In Bozeman a license costs \$65,000. He thinks HB 175 should not pass.

If HB 21 becomes law, the Department of Revenue Liquor Division has the power to reassess fast-growing areas and if it appears that those communities are entitled to more licenses, they will get them.

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The last licenses were issued based on the 1970 census. The 1980 census will put more licenses in some communities. He doesn't think it will jeopardize the property values that people have in those areas. HB 175 raises one question - it is asking you to approve legislation that would bind the 1983 and 1985 sessions, because if it passed, it will affect years until 1986.

BOB DURKEE, Montana Tavern Association, Helena, lobbyist, explained that during the past interim the revenue oversight committee made a very serious study of the liquor system of Montana and entered into all facets of that system, including the liquor quota system and what to do with it. The result was HB 21 that came out of that study. It went through the committee in the House and is now in the Senate, and the bill will do what Rep. Yardley's bill will do; however, it will do it on an annual estimated basis so that at the end of a census period there won't be dropped a lot of licenses into a community overnight. See EXHIBIT F showing potential of customers of drinking age.

The second projection is bringing Rep. Yardley's bill into an actuality of licenses it will provide and these are the same cities again that his bill directs itself to. EXHIBIT F-1 shows an over and under quota. 1985 will be the last time the census bureau takes an actual census, but these are the figures that DCA estimates population will be in 1985. DCA does have the machinery and competence to fairly estimate population. If the quota were strictly adhered to, there would be 300 licenses and today there are 500. Don't need any more licenses to be issued. Need a floater permission to allow licenses to float from over need to where there is a shortage of licenses according to the census. Controlled states take into consideration total population. Do not pass HB 175.

Other opponents are listed on the Visitors' Register.

#### QUESTIONS -

Rep. Robbins - How much personal property tax do people pay on the value of a license? Mr. Strope - There is no property tax on a license. They pay a renewal fee on an annual basis every June 30.

Rep. Andreason - You are familiar with HB 21. Have you any idea what the effect of HB 175 and HB 21 would be on the number of liquor licenses? Rep. Yardley - HB 21 has no change in the quota system itself. LEON MESSERLY - There would be a difference between HB 21 and HB 175 as far as the effect on number of licenses being issued. This would allow raising of the number of licenses issued depending on need. There would be more licenses under both combined than under either one itself. HB 175 would lower those population totals for license need, and they would increase greater together than either one separately.

Rep. Wallin - Feels HB 21 will take care of the problems in Bozeman. Mr. Messerly - The federal census comes every 5 years. HB 21 allows them to adjust this annually.

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Rep. Fabrega - This would be binding future sessions and this bill would not have any effect during the effective life of this assembly. It would lower from 1,500 to 1,400 between the next two years. Mr. Strobe - The last 4 categories only are affected after this session. You would be passing a law that will have no force and effect on changes until after they are out of this Legislature.

Rep. Ellerd - On recognizing of the 1980 census, do we know where we stand on that? Mr. Messerly - the 1980 census figures are only preliminary that have been sent out. Until they get the final figures, they won't calculate how many licenses are available. They have never received an official 1980 census. The concept is received, but they have not sent the list. The DoR won't get them directly, they will be sent to the DCA and they will pass them on to the Liquor Division. They just have to wait to receive the figures and then will start immediately to get those licenses calculated. Six states have received their official figures.

Rep. Ellerd - Will you accept applications now for a license? Mr. Messerly - No, there would have to be licenses available. They assume they are going to be available. The statutes say they can work on official figures only. He thinks HB 21 has a July effective date.

Rep. Wallin - You don't accept any applications for licenses? Mr. Messerly - It takes four weeks to make applications, and they are checked for qualifications. They will also be published in the paper that these people are applying for licenses and publish a date for protest, and then they will come in before a hearing officer to see to whom the license can be issued.

Rep. Fabrega - Are there great enforcement problems, watering drinks and staying open too late? Mr. Durkee - Favors greater numbers of people per license than Montana has. Don't need more licenses in the state. Licenses per capita show that there are quite a few licenses in comparison to population. Rep. Fabrega - There is a high ratio of licenses to per capita. Are we experiencing enforcement problems with those cities at this time? Mr. Messerly - No, the potential arises and would be handled at the local level and the department gets involved after one or two complaints. The possibility could exist that there is a greater risk. Rep. Fabrega - HB 175 and HB 21 have different applications.

Rep. Manning - Figures show an increase in the quota for Bozeman, projected by the Tavern people and the Department of Revenue for Rep. Yardley, of 5 licenses. Mr. Messerly - That is based on actual 1970 figures and the figures that the tavern owners have projected. He feels the tavern owners' figures will be the best estimation, but they are not making an assumption on estimates, they are waiting for the correct 1980 figures. Rep. Manning - You will have an increase of licenses in Billings rural and one other? Mr. Durkee - Yes.

Rep. Fabrega - How many are you expecting to be issued on the final 1980 census figures? Mr. Messerly - Billings will get 6, Bozeman 2 or 3 depending on how the department treats the fractions, and a scattering in rural counties of Ravalli, Lake and Flathead. Mr. Strobe - If no laws change now and the department goes on those figures, those licenses will go anyhow.

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Rep. Kitselman - Will those that are going to Billings be six floaters and two originals, and possibly one floater to Billings rural?  
Rep. Ellerd - The two regular licenses will be worth a great deal and the two floaters will have no value except to allow them to do business.

Rep. Fabrega - HB 175 lowers the population required for a license from 1,500 to 1,000 over a period of years - do you want to do that?

Rep. Yardley - Permits have been transferred, but that doesn't necessarily mean they paid a lot of money for them. Some county licenses are not being used now and can be picked up. We are talking about original licenses here. If someone is going out of business because he is not obeying the law, the department will allow them to transfer the license.

The fact that this would extend into future sessions is nonsense.

The 1985 census figures are based on an estimate. The quota system allows three other licenses.

This is an attempt not to revise in a major way the quota system. Not taking away anybody's property rights. If you believe in the free enterprise business, this applies because it has no major effect on the current value of property rights. It will give more businesses an opportunity in this state.

#### EXECUTIVE SESSION -

Rep. Andreason moved HOUSE BILL 206 DO NOT PASS. Motion carried unanimously.

Rep. Andreason wished to submit a minority report on HB 51. It does not point the vote out, but you can get it out on the floor. This would enter the record and be read from the rostrum.

Meeting adjourned at 11:35 a.m.

Josephine Lahti  
Josephine Lahti, Secretary

Rep. W. J. Fabrega by  
REP. W. J. FABREGA, CHAIRMAN J. Lahti

NAME Joy Luck BILL No. HR 185  
ADDRESS 1501 Atlantic DATE 11/1/40  
WHOM DO YOU REPRESENT League of Women Voters of District  
SUPPORT \_\_\_\_\_ OPPOSE ✓ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We are particularly concerned with the interpretation of "good cause" - if interpreted conservatively, could deter citizens' rights - if interpreted liberally, industrial operations could be affected if polluting or agricultural operations without "good cause".

We also believe any blanket wrongdoings could be taken care of with other laws.

HOUSE BILL NO. 185

By Kanduch, et al

House Bill 185 is the first bill, to my knowledge, which declares it to be the policy of this state to foster and support a sound economy, provide improved opportunities for employment, promote the development of its natural resources and provide the people of Montana with a greater assurance of industrial and commercial stability.

Why is this important?

Before any new industry or new business will come into this state, they always first ask, "What is the economic climate in Montana?" Unfortunately, at the present time we have nothing concrete to show them. As a matter of fact, many industrial concerns have criticized the economic climate of this state, and maybe with cause. Many of us who have unsuccessfully attempted to induce industry to stay in this state are only too well acquainted with the heartaches of communities which have been ravaged by the shutdown of industries unable to operate at a profit. This bill is a first step in an effort to correct this situation.

This bill simply makes it unlawful to interfere with commercial or industrial operations in this state without good cause. "Good cause" has been defined as a lawful objective or privilege pursued in manner prescribed by law and specifically includes any labor-management dispute.

The bill is not directed at any group in this state, even though the press has indicated that the environmentalists are the target. Not a single right or privilege that the environmentalists have today is taken away from them, and this is true of any and all other interests.

It is only when a person is acting contrary to the law that a cause of action arises---and who, in good conscience, could object to this.

We have strong policies on health, the environment and the rights of our individual citizens to participate in government. Isn't it about time that we adopt a policy to improve our economy?

Many may feel that some legislation should be introduced to restrain the efforts of those people who advocate no growth at the expense of economic development. This bill does not do that.

Others may feel that some positive legislation should be introduced to restrict wildcat strikes. This bill does not do that either. There is already a body of law on that subject.

This bill is primarily to establish that Montana supports economic development and is willing to provide some protection to those who are willing to expend capital in this state and provide jobs to our people.

January 21, 1981

My name is David Kasten. I am a rancher and farmer from Brockway, McCone County, Montana. I own and operate ranches in Prairie and McCone Counties. I, also, am the president of People for Economic Progress, a Circle-based organization concerned about the economic stability of Eastern Montana.

I strongly support the intent of House Bill 185. In Montana we have a good set of laws covering environmental concerns.

These laws were not meant to be used to obstruct development and people that use them as such should be liable for the cost of the delays. (For Example: McCone Agricultural Protective Organizationan affiliate of N.P.R.C. has done all they could to stop any development in McCone County. They wouldn't even support feasibility studies that are required under Legislation that they helped to pass.

Now consumers and taxpayers pick up the tab for delays and litigation.

I think it is time for obstructionists to be held legally responsible for their actions.

Sincerely  
David Kasten



January 21, 1981

My name is Al Kington. I live at 6412 Greenmeadow Drive, Helena, Montana and have lived in Montana all my life. I would like to testify in favor of House Bill 185 because it reflects legislation that is necessary to help protect the consumer and taxpayer from paying inflated prices for commodities or services which have been or will be subject to unnecessary increases.

The increases that I refer to are those that result from the delay of production, due to unjustified appeals by individuals or groups whose purposes are mainly to restrict or inhibit the business climate of this state. In doing so, such actions result in:

- 1) slow downs or in some cases postponement of projects which reduce or eliminate jobs within the state. (an example is the re-rig dam in Libby)
- 2) increased costs of construction - (colstrip III and IV) the delays incurred with that project directly cost Montana Power millions of dollars but the one who pays in the long run is the consumer.
- 3) a reluctance for new business to be interested in locating in Montana - Without business growth within this state, and it's addition of tax dollars, we or taxpayers, can expect to continue to pay increased taxes to support those services that we have become accustomed to, but are not willing to sacrifice when a business leaves the state. (Example:)

(Milwaukee Rd. the Anaconda Smelter and Evans Products.)

The key to their bill is that only when it is determined by a court of law that actions to delay, or postpone a project are unjustified will a person or group be penalized. I feel that the consumer, taxpayer and particularly those on low and fixed incomes should not have to bear the blunt of unjustified cost increases for production of commodities and services, jobs losses, and increased taxes. I feel that it is time to indicate to those, who delay for the purpose of opposing, that they should be accountable for their actions when those actions affect more people than those for whom they represent or hold common interests. This bill as I read it will do that and I support its passage.

NAME Philo Fyfe BILL No. H. 2000  
ADDRESS Helen's Road DATE 1/2/51  
WHOM DO YOU REPRESENT The Irish National League & Friends of the  
Monaghan Settlement  
SUPPORT                      OPPOSE                      AMEND                     

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1) I would request that the Bill should be taken before us and also agreed to work on making it impossible to see

that the Bill is not a business one but a political one. The Bill is being introduced by one of the best men in the country and it is a very good Bill. It is a very good Bill and it is a very good Bill.

NAME Pat Underwood BILL No. HB 185  
ADDRESS PO BOX 1207 Bozeman, MT. 59715 DATE 1/21/81  
WHOM DO YOU REPRESENT MONT. FARM BUREAU  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WE SUPPORT THE CATTLEMEN, NFO,  
FARMERS UNION AND WIFE IN DELAYING  
ACTION ON THIS BILL IN ORDER TO  
MAKE MORE COMPATIBLE FOR ALL  
OF AGRICULTURE

Pat Underwood

NAME Tony Murphy BILL No. HB 155  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT Montana Farmers Union  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Support motion to delay action on HB 155*

NAME Jo Brunner BILL No. HB 185  
ADDRESS 531 S OAKES DATE 1/21/81  
WHOM DO YOU REPRESENT W.V.F.E.  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: We support the Cattlemen and National Farmers Organization in delaying Action on this bill in order to make the bill more compatible to Ag.

NAME Gordon Darlenton BILL No. 185  
ADDRESS Route 1 Three Forks DATE 1-21-81  
WHOM DO YOU REPRESENT APA. ET AL  
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

AGRICULTURAL PRESERVATION ASSOCIATION  
PARK COUNTY LEGISLATIVE ASSOCIATION  
SWEETGRASS COUNTY PRESERVATION ASSOCIATION  
STILLWATER COUNTY AGRICULTURAL LEGISLATIVE ASSOCIATION

NAME

L. H. Lynch

BILL No.

185

ADDRESS

333 W. Mercur

DATE

1/22/83

WHOM DO YOU REPRESENT

Mont State Bldg & Co. Inc.

SUPPORT

OPPOSE

☒

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



NAME Eugen Fendler BILL No. 185  
ADDRESS Box 702 Helena DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT Idaho 254  
SUPPORT \_\_\_\_\_ OPPOSE ☒ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Jerry Driscoll BILL No. 185  
ADDRESS 4384 Stone St DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT Laborers Union Local 98  
SUPPORT \_\_\_\_\_ OPPOSE ☒ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Jerry Kich BILL No. 189  
ADDRESS Box 775, Helena DATE 11  
WHOM DO YOU REPRESENT American Leaf Tobacco Union  
SUPPORT \_\_\_\_\_ OPPOSE ✓ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME: MIKE MALES DATE: 21 JAN 1980

ADDRESS: 613 S RODNEY, HELENA 59601

PHONE: 443-2520

REPRESENTING WHOM? ENVIRONMENTAL INFORMATION CENTER

APPEARING ON WHICH PROPOSAL: HB 185

DO YOU: SUPPORT?                      AMEND?                      OPPOSE? X

COMMENTS: A LAWYER'S DREAM — ONLY ONE  
MORE LAYER OF LITIGATION WILL RESULT  
FROM HB 185, WHICH IS UNNECESSARY  
BECAUSE TITLE 27, CHAPTER 19, ALREADY  
PROVIDES THAT COURTS MAY REQUIRE ROAD  
FAIR DAMAGES CAUSED BY INJUNCTIONS;  
EXISTING LAW ALREADY PROHIBITS HARRASSMENT.

NAME Mark Markovitch BILL No. 184  
ADDRESS 1900 Irving DATE 1-21-81  
WHOM DO YOU REPRESENT Adm. in Adm. Serv. Div.  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The following comment  
to the Director, Department of  
Guidance procedures and for  
the Union to settle these  
disputes in the court.

NAME Jim Jensen BILL No. HB 185

ADDRESS 633 N. Rodney Helena DATE 1-21-81

WHOM DO YOU REPRESENT LISCA

SUPPORT \_\_\_\_\_ OPPOSE XXX AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



## OF MONTANA

January 21, 1981

### TESTIMONY OF THE AMERICAN CIVIL LIBERTIES UNION OF MONTANA BEFORE THE BUSINESS AND INDUSTRY COMMITTEE OF THE MONTANA HOUSE OF REPRESENTATIVES

The American Civil Liberties Union of Montana appears before the committee to oppose House Bill No. 185, which seeks to create criminal and civil penalties for delaying business operations without good cause.

There are a number of defects in the bill which we oppose, even aside from the central concept of the bill.

This bill will add nothing new to the law because the present laws of Montana already provide for wrongful interference with businesses.

In specific it is clear that this measure would have the effect of unfairly imposing the costs and inconveniences of the criminal law process upon persons who sincerely and rightfully exercise their legal right to demonstrate or otherwise oppose an activity they dislike. I can easily foresee the following senario:

A group opposes construction which is polluting a popular fishing stream. In response to a sworn complaint or other call to law enforcement officials, demonstrators who are exercising their Free Speech rights to picket the project are arrested. Being charged with a misdemeanor before the local Justice Court, they cannot secure the services of a court-appointed attorney and do not have adequate resources to defend themselves. It appears they may have the burden of showing their conduct was to seek "a lawful objective or privilege or right pursued in a manner prescribed by law." Since such individuals could not afford to defend a court action which can easily be initiated, (particularly since many demonstrators could not be arrested under current disorderly conduct statutes for exercising free speech) they will not exercise their rights which are guaranteed by law.

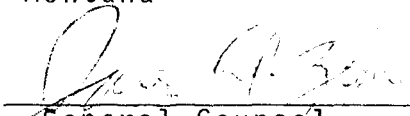
This law is unnecessary because we do have statutes prohibiting disorderly conduct and because the civil law does permit actions for wrongful interference in commercial activities. Subsection **1(2)** would deny sincere citizens of their right to a jury trial. It would appear that the legal burden of proof could be wrongfully shifted to any persons arrested under this measure.

The Federal Criminal Code codification legislation which has died in the last several sessions of Congress had similar legislation tacked onto it in the final days of the last Congress, and the measure died again. While we don't know if this similar legislation killed the measure, we can conclude that it was not viewed favorably by Congress. This measure is a bad idea; it adds nothing new to the law but a harrassment tool which would be used against innocent

demonstrators; and it would impose unfair treatment and burdens on individuals. Therefore we urge a "do not pass" recommendation from this committee.

Respectfully submitted,  
American Civil Liberties Union  
of Montana

By

  
\_\_\_\_\_  
General Counsel



B 4 I

COMMITTEE

Date \_\_\_\_\_

Date 1-21-81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE

COMMITTEE

LL 185

Date

SPONSOR

| NAME            | RESIDENCE    | REPRESENTING                       | SUPPORT    | OPPOSE |
|-----------------|--------------|------------------------------------|------------|--------|
| David K. Kasten | Bozeman Mont | P.E.P.                             | 2          |        |
| ENCIA LANE      | Helena       | Insur. Dept.                       |            | 185    |
| W.A. SEIFFERT   | HELENA       | INS. DEPT                          |            | 185    |
|                 |              |                                    |            |        |
| Ed. M. ...      | Butte        | Mont. ...                          |            | 185    |
| ...             | Helena       | " " " "                            |            | 185    |
| ...             | Butte        | " " " "                            |            | 185    |
| my Driscoll     | Blgo         | Laborer's Union                    | 185        | 185    |
| HB Buckle       | Helena       | Montana Chamber                    | 185        |        |
| ...             | Bozeman      | A.P.A.                             | 1          |        |
| ...             | Bozeman      | A.P.A.                             | 185        |        |
| ...             | MANHATTAN    | A.P.A., P.C.A., S.C.A.             | 185        |        |
| ...             | Helena       | American Civil Lib. Union          |            | 185    |
| ...             | Bozeman Mont | my                                 | 185        |        |
| ...             | Helena 175   | Mont. ...                          | 185        |        |
| ...             | Helena 176   | Self                               |            |        |
| ...             | Helena       | PROT. INFO, WIFE, R.F.U. DEF. INFO | Amend. 185 |        |
| ...             | Helena 176   | Mont. ...                          | 185        |        |
| Bill Hand       | Helena       | Mt. ...                            | 185        |        |
| ...             | Helena       | Mt. ...                            | 185        |        |
| Jim Mcghee      | Bozeman      | Self                               |            | 185    |

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

INCORPORATED CITIES  
OVER 3000

Exhibit E HLE 175

|                   | <u>1970 Census</u> | <u>Currently<br/>Issued</u> | Maximum<br>(1986)<br>Lic Avail<br>HB 175 | Additional<br>Lic Avail |
|-------------------|--------------------|-----------------------------|--|-------------------------|
| Great Falls . . . | 60,091 . . .       | 72 . . .                    | 62 . . .                                 | 0                       |
| Butte . . .       | 23,368 . . .       | 87 . . .                    | 25 . . .                                 | 0                       |
| Billings . . .    | 61,581 . . .       | 53 . . .                    | 63 . . .                                 | 10                      |
| Laurel . . .      | 4,454 . . .        | 7 . . .                     | 6 . . .                                  | 0                       |
| Bozeman . . .     | 18,670 . . .       | 15 . . .                    | 20 . . .                                 | 5                       |
| Missoula . . .    | 29,497 . . .       | 53 . . .                    | 31 . . .                                 | 0                       |
| Helena . . .      | 24,381 . . .       | 39 . . .                    | 26 . . .                                 | 0                       |
| Kalispell . . .   | 10,526 . . .       | 19 . . .                    | 12 . . .                                 | 0                       |
| Whitefish . . .   | 3,349 . . .        | 10 . . .                    | 5 . . .                                  | 0                       |
| Lewistown . . .   | 6,437 . . .        | 12 . . .                    | 8 . . .                                  | 0                       |
| Havre . . .       | 10,558 . . .       | 18 . . .                    | 12 . . .                                 | 0                       |
| Miles City . . .  | 9,023 . . .        | 18 . . .                    | 11 . . .                                 | 0                       |
| Glendive . . .    | 6,305 . . .        | 10 . . .                    | 8 . . .                                  | 0                       |
| Wolf Point . . .  | 3,095 . . .        | 8 . . .                     | 5 . . .                                  | 0                       |
| Dillon . . .      | 4,548 . . .        | 14 . . .                    | 6 . . .                                  | 0                       |
| Glasgow . . .     | 4,700 . . .        | 11 . . .                    | 6 . . .                                  | 0                       |
| Shelby . . .      | 3,111 . . .        | 10 . . .                    | 5 . . .                                  | 0                       |
| Sidney . . .      | 4,543 . . .        | 8 . . .                     | 6 . . .                                  | 0                       |
| Deer Lodge . . .  | 4,306 . . .        | 8 . . .                     | 6 . . .                                  | 0                       |
| Anaconda . . .    | 9,771 . . .        | 33 . . .                    | 11 . . .                                 | 0                       |
| Cut Bank . . .    | 4,004 . . .        | 11 . . .                    | 6 . . .                                  | 0                       |
| Livingston . . .  | 6,883 . . .        | 19 . . .                    | 8 . . .                                  | 0                       |
| Libby . . .       | 3,286 . . .        | 6 . . .                     | 5 . . .                                  | 0                       |

MONTANA



## Tavern Association

Affiliated and Associated with the NLBA and the LBI

STATE HEADQUARTERS / 9 EDWARDS / HELENA, MONTANA 59601

P.O. BOX 851 / PHONE 442-5040

STATISTICS IN SUPPORT OF TESTIMONY BY MONTANA TAVERN ASSOCIATION IN  
OPPOSITION TO HB175 - JANUARY 21, 1981, HOUSE BUSINESS & INDUSTRY.

RESIDENT POPULATION BY AGES - JULY 1, 1979 (Federal Bureau of Census Data)

|                |              | <u>MONTANA</u> | <u>UNITED STATES</u> |
|----------------|--------------|----------------|----------------------|
| Starting at    | Ages 18 - 44 | 39.4%          | 40.4%                |
| legal drinking | 45 - 64      | 20.1%          | 19.9%                |
| age.           | 65 & Over    | 10.6%          | 11.2%                |
|                |              | <u>70.1%</u>   | <u>71.5%</u>         |

|                              | <u>1980 Census</u> | <u>70.1%</u> | <u>Licenses<br/>Now</u> | <u>Licenses<br/>per Capita</u> |
|------------------------------|--------------------|--------------|-------------------------|--------------------------------|
| DILLON                       | 3,980              | 2,790        | 14                      | 199                            |
| HARDIN                       | 3,288              | 2,305        | 12                      | 192                            |
| GREAT FALLS                  | 56,568             | 39,654       | 73                      | 543                            |
| MILES CITY                   | 9,586              | 6,720        | 19                      | 354                            |
| GLENDIVE                     | 6,031              | 4,228        | 10                      | 423                            |
| ANACONDA/DLodge              | 12,507             | 8,767        | 39                      | 225                            |
| LEWISTOWN                    | 7,079              | 4,962        | 12                      | 413                            |
| COLUMBIA FALLS               | 3,103              | 2,175        | 11                      | 198                            |
| KALISPELL                    | 10,299             | 7,220        | 19                      | 380                            |
| WHITEFISH                    | 3,576              | 2,507        | 10                      | 251                            |
| BOZEMAN                      | 21,611             | 15,149       | 15                      | 1,010                          |
| (Available under '80 Census) |                    |              | 17*                     | 891                            |
| CUT BANK                     | 3,698              | 2,592        | 11                      | 236                            |
| HAVRE                        | 10,842             | 7,600        | 18                      | 422                            |
| HELENA/E.HELENA              | 25,461             | 17,848       | 39                      | 458                            |
| MISSOULA                     | 32,841             | 23,022       | 53                      | 434                            |
| LIVINGSTON                   | 6,998              | 4,906        | 19                      | 258                            |
| CONRAD                       | 3,074              | 2,155        | 6                       | 359                            |
| DEER LODGE                   | 4,011              | 2,812        | 8                       | 351                            |
| SIDNEY                       | 5,723              | 4,012        | 8                       | 501                            |
| WOLF POINT                   | 3,073              | 2,154        | 8                       | 269                            |
| BUTTE/SILVER BOW             | 36,970             | 25,916       | 90                      | 288                            |
| SHELBY                       | 3,147              | 2,206        | 10                      | 221                            |
| GLASGOW                      | 4,458              | 3,125        | 11                      | 284                            |
| BILLINGS                     | 68,361             | 47,921       | 53                      | 904                            |
| LAUREL                       | 5,469              | 3,834        | 7                       | 548                            |

|            |         |         |         |     |
|------------|---------|---------|---------|-----|
| MONTANA    | 783,698 | 549,372 | 1,356   | 405 |
| U.S. TOTAL | 220M    | 157.3M  | 268,000 | 602 |

Exhibit F-1

PROJECTED QUOTA LICENSES - HB175

| 1980<br>Census  | Quota | Now<br>Iss. | Over/<br>Under | QUOTA - HB175  |                |                | DCA Est.<br>Pop.<br>1985 | QUOTA - HB175  |                |                |
|-----------------|-------|-------------|----------------|----------------|----------------|----------------|--------------------------|----------------|----------------|----------------|
|                 |       |             |                | 1982<br>(1400) | 1983<br>(1300) | 1984<br>(1200) |                          | 1985<br>(1100) | 1986<br>(1000) | Over/<br>Under |
| DILLON          | 5     | 14          | 9-             | 5              | 5              | 5              | 4,600                    | 6              | 6              | 8-             |
| HARDIN          | 5     | 12          | 7-             | 5              | 5              | 5              | 3,400                    | 5              | 5              | 7-             |
| GREAT FALLS     | 43    | 73          | 30-            | 43             | 46             | 49             | 65,100                   | 61             | 68             | 5-             |
| MILES CITY      | 9     | 19          | 10-            | 9              | 10             | 10             | 9,950                    | 11             | 11             | 8-             |
| GLENDIVE        | 7     | 10          | 3-             | 7              | 7              | 7              | 6,150                    | 7              | 8              | 2-             |
| ANACONDA/DLODGE | 11    | 39          | 28-            | 11             | 12             | 12             | 13,300                   | 14             | 15             | 24-            |
| LEWISTOWN       | 7     | 12          | 5-             | 7              | 8              | 8              | 6,800                    | 8              | 8              | 4-             |
| COL. FALLS      | 5     | 11          | 6-             | 5              | 5              | 5              | 3,500                    | 5              | 5              | 6-             |
| KALISPELL       | 9     | 19          | 10-            | 10             | 10             | 11             | 17,350                   | 18             | 19             | 0              |
| WHITEFISH       | 5     | 10          | 5-             | 5              | 5              | 5              | 4,200                    | 6              | 6              | 4-             |
| BOZEMAN         | 17    | 15          | 2+             | 18             | 19             | 20             | 23,150                   | 23             | 25             | 10+            |
| CUT BANK        | 5     | 11          | 6-             | 5              | 5              | 5              | 3,950                    | 5              | 5              | 6-             |
| HAVRE           | 10    | 18          | 8-             | 10             | 11             | 11             | 11,400                   | 12             | 13             | 5-             |
| HELENA/EHLN.    | 19    | 39          | 20-            | 21             | 22             | 23             | 35,200                   | 34             | 37             | 2-             |
| MISSOULA        | 24    | 53          | 29-            | 26             | 27             | 29             | 33,300                   | 32             | 35             | 18-            |
| LIVINGSTON      | 7     | 19          | 12-            | 7              | 8              | 8              | 7,450                    | 9              | 9              | 10-            |
| CONRAD          | 5     | 6           | 1-             | 5              | 5              | 5              | 3,300                    | 5              | 5              | 1-             |
| DEER LODGE      | 5     | 8           | 3-             | 5              | 5              | 5              | 5,300                    | 7              | 7              | 1-             |
| SIDNEY (*)      | 6     | 8           | 2-             | 6              | 7              | 7              | 4,800                    | 6              | 6              | 2-             |

| 1980<br>Census   | Quota      | Now<br>Iss. | Over/<br>Under | QUOTA - HB175  |                |                | DCA Est.<br>Pop.<br>1985 | QUOTA - HB175            |                |                |
|------------------|------------|-------------|----------------|----------------|----------------|----------------|--------------------------|--------------------------|----------------|----------------|
|                  |            |             |                | 1982<br>(1400) | 1983<br>(1300) | 1984<br>(1200) |                          | 1985<br>(1100)           | 1986<br>(1000) | Over/<br>Under |
| WOLF POINT       | 5          | 8           | 3-             | 5              | 5              | 5              | 3,700                    | 5                        | 5              | 3-             |
| BUTTE/S.BOW (**) | 27         | 90          | 63-            | 29             | 31             | 33             | 40,700                   | 39                       | 42             | 48-            |
| SHELBY           | 5          | 10          | 5-             | 5              | 5              | 5              | 2,950                    | (N/A - under 3,000 pop.) |                |                |
| GLASGOW          | 5          | 11          | 6-             | 6              | 6              | 6              | 5,250                    | 7                        | 7              | 4-             |
| BILLINGS         | 48         | 53          | 5-             | 51             | 55             | 59             | 87,050                   | 81                       | 89             | 36+            |
| LAUREL           | 6          | 7           | 1-             | 6              | 6              | 7              | 8,200                    | 9                        | 10             | 3+             |
|                  | <u>300</u> | <u>575</u>  |                |                |                |                |                          |                          |                |                |

(\*) Sidney increased 25% from 1970. If the trend continues, the 1985 estimated population would be 6,438 (5,723 x 12.5% (5 years) = 715). The 1985 and 1986 quotas would be 8 and they already have 8 issued.

(\*\*) Determined on city quota formula.

| State                | Number of Licenses |             |                    |                | Estimated' Population July 1, 1978 | Number of Licenses per 1,000 population |             |                    |                | Number of Persons per License |                 |                        |                    |  |
|----------------------|--------------------|-------------|--------------------|----------------|------------------------------------|---|-------------|--------------------|----------------|-------------------------------|-----------------|------------------------|--------------------|--|
|                      | On-Premise         | Off-Premise | On and Off-Premise | Total Licenses |                                    | On-Premise                              | Off-Premise | On and Off-Premise | Total Licenses | Per On-Premise                | Per Off-Premise | Per On and Off-Premise | Per Total Licenses |  |
|                      |                    |             |                    |                |                                    |   |             |                    |                |                               |                 |                        |                    |  |
| LICENSE STATES       |                    |             |                    |                |                                    |   |             |                    |                |                               |                 |                        |                    |  |
| Alaska               | 692                | 425         | 1,117              | 403,000        | 1.72                               | 1.05                                    | 2.77        | 582                | 948            | 1,672                         | 361             |                        |                    |  |
| Arizona              | 1,140              | 1,194       | 2,334              | 2,354,000      | 0.48                               | 0.51                                    | 0.99        | 2,065              | 1,972          | 1,59                          | 629             |                        |                    |  |
| Arkansas             | 419                | 647         | 1,066              | 2,186,000      | 0.19                               | 0.30                                    | 0.49        | 5,217              | 3,378          | 0.49                          | 2,051           |                        |                    |  |
| California           | 13,379             | 10,960      | 24,339             | 22,294,000     | 0.60                               | 0.49                                    | 1.09        | 1,666              | 2,034          | 0.49                          | 916             |                        |                    |  |
| Colorado             | 3,098              | 1,149       | 4,247              | 2,670,000      | 1.16                               | 0.43                                    | 1.59        | 862                | 2,324          | 1.59                          | 629             |                        |                    |  |
| Connecticut          | 3,098              | 2,033       | 5,131              | 3,099,000      | 1.00                               | 0.66                                    | 1.66        | 1,000              | 1,524          | 1.66                          | 604             |                        |                    |  |
| Delaware             | 349                | 292         | 641                | 583,000        | 0.60                               | 0.50                                    | 1.10        | 1,670              | 1,997          | 3.005                         | 698             |                        |                    |  |
| District of Columbia | 764                | 374         | 1,138              | 674,000        | 1.13                               | 0.55                                    | 1.69        | 882                | 1,802          | 1.69                          | 592             |                        |                    |  |
| Florida              | 2,454              | 501         | 2,955              | 8,594,000      | 0.29                               | 0.06                                    | 0.35        | 3,502              | 17,154         | 2.332                         | 1,294           |                        |                    |  |
| Georgia              | 1,347              | 1,448       | 2,795              | 5,084,000      | 0.26                               | 0.28                                    | 0.55        | 3,774              | 3,511          | 0.55                          | 1,819           |                        |                    |  |
| Hawaii               | 959                | 695         | 1,654              | 897,000        | 1.07                               | 0.77                                    | 1.84        | 935                | 1,291          | 1.84                          | 542             |                        |                    |  |
| Illinois             | 1,187              | 1,766       | 2,953              | 11,243,000     | 0.22                               | 0.33                                    | 0.55        | 4,527              | 3,043          | 0.55                          | 439             |                        |                    |  |
| Indiana              | 975                | 1,202       | 2,177              | 5,374,000      | 0.42                               | 0.51                                    | 0.93        | 2,408              | 1,953          | 1.563                         | 841             |                        |                    |  |
| Kansas               | 1,065              | 864         | 1,929              | 2,348,000      | 0.30                               | 0.25                                    | 0.55        | 3,285              | 4,049          | 35.694                        | 1,079           |                        |                    |  |
| Kentucky             | 6,264              | 2,413       | 8,677              | 3,498,000      | 1.58                               | 0.61                                    | 2.19        | 633                | 1,644          | 0.58                          | 1,726           |                        |                    |  |
| Louisiana            | 534                | 985         | 1,519              | 3,966,000      | 0.13                               | 0.24                                    | 0.37        | 7,758              | 4,206          | 1.333                         | 457             |                        |                    |  |
| Maryland             | 5,898              | 1,693       | 7,591              | 4,143,000      | 1.02                               | 0.29                                    | 1.31        | 979                | 3,411          | 0.12                          | 895             |                        |                    |  |
| Massachusetts        | 2,105              | 680         | 2,785              | 5,774,000      | 0.53                               | 0.17                                    | 0.70        | 1,904              | 5,894          | 3.721                         | 761             |                        |                    |  |
| Minnesota            | 366                | 3,279       | 3,645              | 4,860,000      | 0.23                               | 0.67                                    | 0.89        | 4,276              | 1,482          | 1.476                         | 1,038           |                        |                    |  |
| Missouri             | 1,040              | 785         | 1,825              | 1,565,000      | 1.58                               | 0.34                                    | 1.92        | 635                | 2,931          | 0.845                         | 740             |                        |                    |  |
| Nevada               | 1,523              | 1,970       | 3,493              | 660,000        | 0.21                               | 0.19                                    | 0.40        | 4,811              | 841            | 1.009                         | 569             |                        |                    |  |
| New Jersey           | 161                | 84          | 245                | 7,327,000      | 0.13                               | 0.07                                    | 0.20        | 7,528              | 14,429         | 0.876                         | 618             |                        |                    |  |
| New Mexico           | 23,399             | 4,587       | 27,986             | 1,212,000      | 1.32                               | 0.26                                    | 1.58        | 758                | 3,869          | 0.991                         | 826             |                        |                    |  |
| New York             | 79                 | 91          | 170                | 17,748,000     | 0.12                               | 0.14                                    | 0.26        | 8,253              | 7,165          | 663                           | 634             |                        |                    |  |
| North Dakota         | 1,451              | 307         | 1,758              | 652,000        | 1.55                               | 0.28                                    | 1.83        | 644                | 3,046          | 0.565                         | 565             |                        |                    |  |
| Rhode Island         | 1,172              | 1,199       | 2,371              | 2,880,000      | 0.40                               | 0.33                                    | 0.73        | 2,490              | 3,046          | 3.573                         | 352             |                        |                    |  |
| South Carolina       | 822                | 588         | 1,410              | 935,000        | 0.17                               | 0.41                                    | 0.58        | 839                | 2,434          | 1.231                         | 532             |                        |                    |  |
| South Dakota         | 744                | 550         | 1,294              | 2,918,000      | 0.19                               | 0.85                                    | 1.04        | 5,856              | 7,922          | 1.489                         | 489             |                        |                    |  |
| Tennessee            | 5,439              | 3,188       | 8,627              | 4,357,000      | 0.42                               | 0.13                                    | 0.55        | 2,393              | 4,082          | 3.367                         | 3,367           |                        |                    |  |
| Texas                | 12,849             | 1,631       | 14,480             | 13,014,000     | 0.62                               | 0.24                                    | 0.86        | 364                | 2,869          | 1,509                         | 1,509           |                        |                    |  |
| Wisconsin            | 94,772             | 48,920      | 143,692            | 4,679,000      | 2.75                               | 0.35                                    | 3.09        | 1,611              | 3,121          | 323                           | 323             |                        |                    |  |
| TOTAL LICENSE        |                    |             |                    | 152,689,000    | 0.62                               | 0.32                                    | 0.94        |                    |                | 2,777                         | 769             |                        |                    |  |
| CONTROL STATES       |                    |             |                    |                |                                    |   |             |                    |                |                               |                 |                        |                    |  |
| Alabama              | 1,924              | 129         | 2,053              | 3,742,000      | 0.51                               | 0.03                                    | 0.55        | 1,945              | 29,008         |                               | 1,823           |                        |                    |  |
| Idaho                | 776                | 131         | 907                | 878,000        | 0.88                               | 0.15                                    | 1.03        | 1,131              | 6,702          |                               | 968             |                        |                    |  |
| Iowa                 | 4,369              | 213         | 4,582              | 2,896,000      | 1.51                               | 0.07                                    | 1.58        | 663                | 13,596         |                               | 632             |                        |                    |  |
| Maine                | 989                | 71          | 1,060              | 1,091,000      | 0.91                               | 0.07                                    | 0.97        | 1,103              | 15,366         |                               | 1,029           |                        |                    |  |
| Michigan             | 8,864              | 3,347       | 12,211             | 9,189,000      | 0.96                               | 0.36                                    | 1.33        | 1,037              | 2,745          |                               | 753             |                        |                    |  |
| Mississippi          | 580                | 614         | 1,194              | 2,404,000      | 0.24                               | 0.26                                    | 0.50        | 4,145              | 3,915          |                               | 2,013           |                        |                    |  |
| Montana              | 970                | 140         | 1,110              | 785,000        | 1.22                               | 0.18                                    | 1.40        | 898                | 5,607          | 521                           | 477             |                        |                    |  |
| New Hampshire        | 71                 | 71          | 142                | 871,000        | 1.11                               | 0.08                                    | 1.20        |                    | 12,268         |                               | 837             |                        |                    |  |
| North Carolina       | 347                | 347         | 694                | 5,577,000      | 0.06                               | 0.06                                    | 0.12        |                    | 16,072         | 2,405                         | 16,072          |                        |                    |  |
| Ohio                 | 10,079             | 414         | 10,493             | 10,749,000     | 0.94                               | 0.04                                    | 0.98        | 1,066              | 25,964         |                               | 718             |                        |                    |  |
| Oregon               | 1,162              | 194         | 1,356              | 2,444,000      | 0.48                               | 0.08                                    | 0.56        | 2,103              | 12,598         |                               | 1,802           |                        |                    |  |
| Pennsylvania         | 19,433             | 721         | 20,154             | 11,750,000     | 1.65                               | 0.06                                    | 1.72        | 605                | 16,297         |                               | 583             |                        |                    |  |
| Utah                 | 109                | 108         | 217                | 1,307,000      | 0.08                               | 0.08                                    | 0.16        | 11,991             | 12,102         | 8,169                         | 3,467           |                        |                    |  |
| Vermont              | 1,029              | 63          | 1,092              | 487,000        | 2.11                               | 0.13                                    | 2.24        | 474                | 7,730          |                               | 446             |                        |                    |  |
| Virginia             | 1,718              | 253         | 1,971              | 5,148,000      | 0.33                               | 0.05                                    | 0.38        | 2,997              | 20,348         |                               | 2,612           |                        |                    |  |
| Washington           | 2,046              | 334         | 2,380              | 3,774,000      | 0.54                               | 0.09                                    | 0.63        | 1,845              | 11,299         |                               | 1,586           |                        |                    |  |
| West Virginia        | 1,108              | 164         | 1,272              | 1,860,000      | 0.60                               | 0.09                                    | 0.69        | 1,679              | 11,341         |                               | 1,462           |                        |                    |  |
| Wyoming              | 155                | 8           | 163                | 424,000        | 0.37                               | 0.02                                    | 0.39        | 2,735              | 53,000         | 697                           | 550             |                        |                    |  |
| TOTAL CONTROL        | 55,311             | 7,322       | 62,633             | 65,376,000     | 0.85                               | 0.11                                    | 0.96        | 1,182              | 8,929          | 9,695                         | 942             |                        |                    |  |
| GRAND TOTAL          | 150,083            | 56,242      | 206,325            | 218,065,000    | 0.69                               | 0.26                                    | 0.95        | 1,453              | 3,877          | 3,533                         | 814             |                        |                    |  |

TOTALS MAY NOT ADD DUE TO ROUNDING.  
 NEW YORK DATA IS FOR 1977.

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 WASHINGTON, D.C.

SUGGESTED AMENDMENTS BY REP, KANDUCH FOR HOUSE BILL 185

1. Title, line 8.

Following: "CAUSE"

Insert: "AND EXCLUDING LABOR DISPUTES"

2. Page 2, lines 5 and 6.

Following: "law"

Strike: ", and specifically includes any labor-management dispute"

3. Page 2, following line 8.

Insert: "Section 3. Exclusion. Any and all disputes between  
management and labor, including action taken to resolve the  
disputes, are expressly excluded from the application of this act."

Renumber: Subsequent sections.



HOUSE BILL 185

1. Amend title by adding after the word "CAUSE" on line 8, page 1, the following: "AND EXCLUDING LABOR DISPUTES."
2. Amend page 2, line 5 by substituting a period for the comma after the word "law" and deleting the remainder of the sentence.
3. Add a new section following subparagraph (2) on page 2 as follows:  
"Section 3. Exclusion. Any and all disputes between management and labor, including action taken to resolve the disputes, are expressly excluded from the application of this act."
4. Renumber Section 3 in the bill to read Section 4. Renumber Section 4 in the bill to read Section 5.

REPORT TO  
HOUSE BUSINESS AND INDUSTRY COMMITTEE

January 22, 1981

Representative Ellerd, during discussion of HB 185 in executive session today, raised the question of the extent to which the bill could be amended. I interpreted this question to refer to a tentative suggestion that the bill might be amended to require that the objectors, through court action or some other mechanism, might be required to prove "good cause" before impeding a project. As introduced, the bill provides pecuniary liability for persons who delay or interfere with projects "without good cause."

Although Article V, Section 11(1), of the Montana Constitution provides that a bill "shall not be altered or amended on its passage through the legislature as to change its original purpose," consultation with the Legislative Council legal director yielded the opinion that an amendment as described above would probably be allowable since it would be in keeping with the purpose of the bill as expressed in Section 1.

Such amendment would be achieved through a Substitute Bill.

STATEMENT OF INTENT. The current statutory authority providing a preference to blind and handicapped persons in the leasing of vending facilities on state property is not adequate for the purposes of authorizing the Department of Social and Rehabilitation Services to administer the federal Randolph-Shepard Act for either federal or state purposes. The state statutory scheme for providing a preference to blind vendors in the leasing of vending areas in state property is poorly defined and difficult to administer.

This act will provide specific statutory authority in Section 10 by which the Department may administer the programs it has established for the purposes of the federal Randolph-Sheppard Act. Section 10 subsection 2 authorizes the Department to adopt rules for the purposes of implementing the administration of vending facilities on Federal property by the Department as authorized in the federal Randolph-Sheppard Act and for administering programs mandated by the federal Randolph-Sheppard Act.

This act provides for a state program administered by the Department which will make available to qualified blind persons vending facilities to be operated by them. This programmatic statutory scheme is a more appropriate mode for providing vocational opportunities to blind persons than was the prior preference system. This scheme will insure that federal and state vocational programs are available to those blind persons who are most qualified to become blind

vendors. The preference system did not distinguish as to degree of handicap or economic need. This scheme will also insure continuity in the administering of these vending facilities and related programs. The preference system did not insure that vending facilities would be available to qualified blind persons nor did it encourage the investment of program resources in the training of qualified blind persons and the equipping of vending facilities for operation by them. This act clearly defines what state property is subject to the act. This act also provides that the Department may enter into agreements with private parties and local governments in order to make vending facilities on their properties available to qualified blind vendors. The prior preference system in not defining the property subject to the preference raised serious questions as to its intended scope, nor did the prior preference system allow for the expansion by agreement of the blind vendor program into vending facilities on private property.

The certification of blind persons qualified to be blind vendors provided for in this act is necessary for administration by the Department of the federal Randolph-Sheppard Act on federal properties. This certification will constitute the "licensing" mandated in the federal Randolph-Sheppard Act. This certification will be utilized for the purposes of the state program as well. The administration of the program for federal and state purposes will be therefore more congruent.

This act provides that the Department may administer a health and retirement fund for the blind vendors. This fund as well as the blind vendors program may be funded by a set-aside from the net income of blind vendors. This set-aside is to be a reasonable percentage which will not affect the financial status of the blind vendors to such a degree as to deny them the intended vocational and economic benefits of the program. The health and retirement fund and the blind vendors program may be funded as well by the department from the income the department may receive from vending facilities which it may operate directly. The health and retirement fund is authorized for the purpose of implementing that aspect of the federal Randolph-Sheppard Act. The applicability of this fund to blind vendors on state property will insure that there will be congruence between the program as administered for federal and state purposes.

This act states the authority of the Department for the purposes of the act and provides the general criteria and procedure for the transfer of the administration of vending facilities on state property to the Department. The prior preference system did not define administrative authority nor did it state what the appropriate criteria and procedure would be.

The act provides the Department with the rulemaking authority necessary for the implementation in a definitive manner of the purposes of this act.