

HOUSE BUSINESS AND INDUSTRY COMMITTEE

January 27, 1981

SUMMARIES FOR

HOUSE BILL 130 -

Introduced by Rep. Jacobsen, provides for disposing of stock of a farm implement dealer whose contract or agency has terminated. The dealer may either retain the stock or return it to the manufacturer for reimbursement of 100% of net cost plus transportation charges. The bill gives the dealer the right to recover from a manufacturer who refuses to make the required payments through a civil action.

HOUSE BILL 257 -

Introduced by Rep. Wallin and others, exempts from the requirement of examination those persons licensed to sell mechanical breakdown insurance. The state insurance department agreed to this exception while specifying that agent's license will be required for those persons. This waives only the examination.

HOUSE BILL 142 -

Introduced by Rep. Shontz, amends the state's motor carriers' law to require the Public Service Commission to foster competition to assure the greatest possible service to Montana citizens. The bill provides the Commission may not deny a request by a motor carrier for a certificate of convenience and necessity solely because the granting might affect another carrier's profits or gross volume.

BUSINESS AND INDUSTRY COMMITTEE

Rep. William Ray Jensen, Vice Chairman, called this meeting to order at 8:00 a.m., January 27, 1981, in Room 129, Capitol Building, Helena. All members of the committee were present except Rep. Richard Manning who was excused. Bills to be heard were HBs 130, 142, 257.

HOUSE BILL 142 -

REP. JOHN M. SHONTZ, House District #53, Richland County, chief sponsor, said HB 142 intent was to provide the Public Service Commission with an additional tool, and give them a little more leeway in dealing with authorization of certificates of carriers in the marketplace. He offered an amendment, EXHIBIT A.

The Legislature has established the guidelines the PSC must follow, and while this particular bill does not propose to change any of those criteria, it does provide the PSC more flexibility in allowing an additional carrier into the market. One of the questions that arises, does it deregulate the trucking service in Montana? In terms of the marketplace, it opens it up considerably. In the spirit of competition, hopefully it would increase the service, particularly in small cities in Montana. This would tie together with the federal deregulation of the industry. There are persons who have travelled well over 1,000 miles to be here. See the Witness Sheets attached for other proponents.

REP. GLENN JACOBSEN, House District #1 representative, said Northeast Montana, Plentywood, sets up there in the corner and Billings is the supplier for a lot of supplies for our small retail stores. Farm equipment comes from Billings, and all the freight has to be routed through Williston twice a week. If they get some relief on deregulations, maybe some competitive means will be developed. Sidney is in the same position. He supports HB 142.

SEN. LARRY TVEIT, District #27, Richland County, said the PSC is tied to the law, and they have ignored a lot of the laws and taken care of some of the smaller areas. With the growth in Montana, communities were left holding the bag. Competition in any entity is healthy. See EXHIBIT B.

OPPONENTS -

BEN HAVDAHL, Montana Motor Carriers Association, Helena, said Larry Huss is attorney for the organization, Wayne Budt is director of the Montana Transportation operation of the Commission. He is opposed to the policy which is governing the intrastate carriers as proposed in HB 142. There are two basic concepts that apply - a policy of free entry coupled with free prices or free rates. This concept is total deregulation. Controlled entry coupled with controlled rates and prices now exists in Montana. See EXHIBIT C.

LARRY HUSS, representing the Montana Motor Carriers Association, said the concept of deregulation has taken place over the past 3-4 years. Under HB 142 the market will be opened, but rates will be kept under control. When control of who participates and what they charge is in effect, the public is protected.

The other system that works is the free enterprise system of an open market. You can't have competition in one area without the other. Deregulation has been

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opposed to a man by our Congressmen. The theory of deregulation is the theory dreamed up on the eastern seaport where they have 6,000 people per mile. That is not so in Montana. The western states have been very cautious about deregulation because of the impact it will have on the rural areas. Under deregulation Montana started losing its airlines, BNT is considering pulling back on its lines, stopping its service to small points. Business people go where there is adequate service. Federal government has set up the machinery for an interim study and until the decisions of the experts who are making that study are made, Montana could be in trouble. Should not tamper with what has been in Montana for the past 30 years.

QUESTIONS -

Rep. Metcalf - Do you consider this to be a deregulation of the trucking business? Mr. Budt - It is going to be open to interpretation of fitness, service, etc., basically federal language "based on competition from another line." It could have a big impact, but it is hard to say. When looking at the impact, you are looking at service, too.

Rep. Kitselman - Upon the BN deregulation was there an immediate influx of carriers to fill that void? Mr. Budt - No. The big push coming up is oilfield equipment. One problem is less than truckload lots to merchants, stores, schools, etc. The truckload hauler would be a lumber hauler, sheetrock hauler, oilfield equipment hauler. There are small packages coming into towns on a regular basis.

Rep. Bergene - Have you ever suggested an 18 months study? Who would make up this board? Mr. Havdahl - Has not personally opposed this before. Similar legislation was introduced in the last session and it was not passed out of committee. He doesn't think the system is without fault - there has got to be room for improvement. He has no objection to an interim study. The Governor expects to appoint a transportation board. Transportation has a very high priority. The Association would lend its expertise and resources to the study.

Rep. O'Hara - How many carriers are there serving eastern Montana? Mr. Budt - There are 40-45 statewide. The majority are in the western end of the state. Some are included that run clear across the state. When BN pulled out of the Hiline, Twin City freight, BNT still has some lines along the Hiline, and a Billings carrier picked up some.

Rep. Ellerd - The study is mandated by federal law and is being conducted now? Mr. Budt - There will be a report back to the Congress as to what they want. It is dominated by eastern interests. It probably wouldn't hurt for somebody in the state to become knowledgeable about the impacts of complete deregulation of the trucks.

Rep. Schultz - What is really happening? What is the big problem? Rep. Shontz - Our market has dramatically grown, doubled. The industrial base is 5 times today what it was four years ago, not only in terms of industry but people that come with that. We haven't really had any increase in common carrier freight service. BNT came in quickly and they have worked very hard getting out. One comment was: there will be very little service under some sort of deregulatory concept - we have very little service now. The airplane into Sidney brings in more than the common carrier. There is freight today for many cities in Montana that is sitting on the dock in Williston. That is an impact of deregulation on small isolated rural communities.

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Rep. Kessler - One of the problems that would occur would be that somebody would only pick up the money-making routes? Mr. Havdahl - If a carrier could not defend his profitable routes, he could not keep in business. He needs the profitable areas. Mr. Budt - He would have to keep the nonprofitable areas on his route.

Rep. O'Hara - The 10% figure that is allowed may or may not be adequate in Montana? Mr. Havdahl - On the federal level it allows an existing carrier to meet whatever his costs are. As to that 10% latitude working, might need 50%.

Rep. Andreason - Would you expect if HB 142 were passed, there would be a large influx of trucks into the market? Mr. Budt - If it were opened up, you would see a lot of people to haul lumber, etc., but not LTL freight.

Rep. Jacobsen - Is there service from Billings to Glendive? What would it take to start up a line? Mr. Budt - Yes. An application is made out, and if there are protests, a hearing would have to be made to prove need. Additional service is necessary if proven by witnesses coming and saying there is a lack of service. Mr. Havdahl - As an Association, they would have no concern with that. They don't get into applications for authority as far as the Association is concerned. Mr. Huss - If many people showed up and said there was a need for service, it would be granted.

Rep. Jacobsen - Wasn't that area from Sidney served by the BN before they pulled out? Rep. Ellerd - Was there an application filed for Sidney and 70 miles around it? Mr. Budt - The first application was denied. If you are a carrier operating solely within one state, you can apply for an ICC. The only protest was from the interstate carrier. There weren't any protests on the intrastate. They went to the ICC and got the intrastate.

Rep. Ellerd - In the past 8-10 years have there been any applicants in that area? Mr. Budt - Couldn't recall any others since 1977.

Rep. Schultz - You have to have a company that is able to carry insurance and handle claims. Vera Henderson, Sidney - Had a claim with BN on a battery shipment, and it took three years for the \$41 claim to be settled. LTL is a problem. Williston Interstate brings in a lot of freight. They don't have the service, and it seems the people who have the permits neither want to serve or to allow anyone else to come in.

Rep. Kessler - If you apply from Billings to Glendive, the Commission couldn't say you have to take Glendive? Mr. Budt - They could deny the application. Rep. Ellerd - Do you think there is sufficient business for someone else to come into the area? Rep. Shontz - It is a much larger question than just our area. Most of the major companies involved in energy service do not use other than their own service. Quite a bit is hauled by their aircraft.

Rep. Shontz closed saying a lot of questions have arisen, and don't have all the answers, but it is something that everyone needs to look at. May see a federal policy change, and we should prepare to study that. The small isolated Montana communities are the ones that are going to suffer. In many places, the major carriers are not serving small places profitably. How is the public interest best served?

REPRESENTATIVE FABREGA TOOK OVER AS CHAIRMAN

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With regard to the comments of motor carriers, we are not going to open it wide open. This bill is proposing that it "may" not deny an application. It affects many cities in Montana - all of us. If nothing else, it needs to have a serious look taken at it.

HOUSE BILL 257 -

REP. NORM WALLIN, House District #76, Gallatin County, chief sponsor, said HB 257 would make legal what is already being done. It exempts those persons who sell mechanical breakdown insurance from having to take an examination, but they still have to have an agent's license.

Mechanical insurance is when cars were sold, you used to get 90 days warranty. Competition got them raised to 5 years and 50,000 miles, but standard procedure now is 12 months and 12,000 miles. This supplements a period of time beyond that where people get the same, almost the same, coverage as in the beginning. It provides a means for those people who want to have mechanical coverage beyond the terms of the new car warranty. It is not possible for people with older cars to buy this type of insurance. There is no competition, and one rate. It is called an 'extended service' plan. Not all, but most factories provide this service.

JERRY RAUNIG, Automobile Dealers Association, Helena, explained this is an in-house project sold by dealers. He doesn't feel it is necessary that the insurance sellers need to have a license to sell this type of insurance.

JO DRISCOLL, Chief Deputy Insurance Commissioner, said they have no objection to the bill. They have been trying to emphasize what is the difference between service and insurance. They are concerned only with those underwritten by an insurance company. There is no need to have an examination. A casualty insurance would cover a dealer, but they don't want to be in the insurance business, but just want to offer this service to their customers. She thinks it is alright for them to be able to sell this type of coverage without a license.

LES KITSELMAN, representative of House District #60, Yellowstone County, thinks of this not as insurance, but as a warranty. The problem is in the smaller communities where they do not have an insurance agent. He supports HB 257.

OPPONENTS: None

QUESTIONS -

Rep. Fabrega - Will anyone selling this type of coverage have to submit forms to your outfit? Jo Driscoll - Yes, they still have to be licensed. No one can sell any kind of insurance unless it is approved by the Commissioner. It has to be filed. Someone comes into the dealer's place and the dealer asks if the customer wants to buy extended coverage. Most dealers have a licensed insurance person in their company. They have a contract between the dealer and the consumer - he will stand behind that product. When the dealer is being indemnified by a third party, it gets into the realm of insurance.

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Rep. Robbins - Do they have to pay a license fee in order to sell this?
Ms. Driscoll - Yes. The insurance company would file a request for a license with their office, and there is a fee for that.

Rep. Fabrega - 3 months, 9 months, or a year is not considered insurance. The warranty is 12 months and 12,000 miles - then you actually pay some additional cash for coverage? Ms. Driscoll - That is the part the Commission is concerned with. A manufacturer's warranty is a true warranty. Mr. Raunig - The basic difference between a warranty and a service contract is that a warranty is something given to the company; and if a third party becomes involved that is insurance.

Rep. Wallin closed saying this is a clean-up area for dealers handling insurance.

HOUSE BILL 130 -

REP. GLENN JACOBSEN, House District #1, Sheridan County, sponsor, said HB 130 will set up a guideline in the statutes to protect both the manufacturer and the dealer. This is written basically as most of the contracts are written now. It will be in the contract and will save a lot of expensive litigation when it is in the law.

AVIS ANN TOBIN, Montana Hardware and Implement Association, Helena, said the Association represents 87% of the farm equipment dealers in Montana. The board is supporting HB 130 which is quite similar to the North Dakota law that has been in effect for quite a few years. That law includes motor vehicles and trucks. It lays it on the line as to the terms of a voluntary or involuntary termination of the contract.

JOHN P. POSTON, Westmont Tractor, Helena, said his company has offices in Missoula, Kalispell and Libby. He requested this bill be amended to include heavy equipment dealers as well as farm equipment dealers. He supports the bill in any case. It relates to the lesser of two unequals seeking help. They deal with huge multinational manufacturers and are in an unequal position with the manufacturer. They usually enter into a one-year contract which is automatically renewed. At the end of a year, the new management might tend to downgrade this facet of the merchant's business, or if a particular product hasn't been doing well, there is an expansion of the market where they get out of one market and into another and you are dealing with another facet, but the dealer has an old line inventory. The local dealer has no control over this. The product may be faulty and it is discontinued; upon termination of the contract the local dealer is faced with the terms of the large corporation. It could be poor management on the part of the manufacturer where they can't get service for the local dealer.

Death of the dealer could be one reason for termination of a contract. The manufacturer could say parts are obsolete and take only what they think is good, and set up another dealer nearby. He feels the heavy equipment people should come under this bill also. There would be a problem in deciding which is agricultural equipment and which is heavy equipment - a problem of definition. Equipment used in mining is the same as that in agriculture in some instances.

He recommends amending to include all heavy equipment dealers, and will submit proposed amendments.

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B. GARY HURD, Westmont Tractor Company, Missoula, said there are two things in a contract providing for termination. A company can request to be terminated or cancelled, or the manufacturer can terminate. The manufacturer shall have the right to cancel all unfilled orders. The dealer waives any and all claims relating to the products purchased, and if cancelled and the warranty period is not yet run out, could be stuck with freight, storage, and packing to get it back to where the company tells you to send it.

Items that are non-returnable or would not be acceptable because of their value, low shelf life of products, could amount to \$40-50,000. Some contracts are not rewritten after a year. A dealer buys what is necessary, and then has a new contract written by the manufacturer with no way out.

As a dealer you may elect not to represent a manufacturer. If you cancel, you cannot return much of your inventory. You are only allowed to turn down 10% of your best year's purchases, and it would take a long time to get rid of that much. Eighty-five percent of the net cost or current net would not be paid but when talking about some contract stating their purchase price by invoice, and you have had these items in your stock for a couple of years, the stock would be terribly depreciated.

They need this bill to protect their large dollar inventories.

JERRY RAUNIG, Montana Auto Dealers Association, Helena, said HB 130 is similar to the 1976 Montana Manufacturer/Dealer Licensing law. A need arose because many of the manufacturers were beginning to exercise their economic power. The act has done some good and has been good for our dealers.

OPPONENTS -

RAY EDWARDS, Iowa, representing John Deere & Company, feels his organization as one of its greatest assets has been its ability to work out problems with dealers as they arose. He is not objecting to buy-back bill. They have come this far without government regulation between company and dealer. He wonders if there is a need in Montana for this type of regulation. Some states have felt this necessary and have some legislation on it.

Minnesota is the branch of John Deere that serves Montana. He asked his company if there are some disgruntled dealers. Will there be further efforts to wreck the relationship between farm equipment manufacturers and dealers. No need for this regulation. If you move ahead with this sort of regulation, he had some thoughts on how things that have been omitted should be included, and maybe some should be that are not there. He wants an opportunity to work with someone to try to get in there some of these ideas that have been tried and have worked in other states.

He is opposed to this particular bill because of the general idea of the direction it is taking in this area.

See witness sheets and mailgrams for others opposing HB 130.

QUESTIONS -

Rep. Ellerd - When motor vehicles are excluded such as in International Harvester, does this exclude that from their operation? Mr. Raunig - Believes

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those farm equipment dealers would be covered under their act and that is why they are in in this act.

Rep. Ellison - If a tractor and front end loader handled by a farm equipment dealer is sold to a construction outfit, how would that be determined as to whether that would be covered or not? Rep. Jacobsen - The title relates to farm implement dealers. He believes that could be incorporated. Rep. Fabrega - The title could be amended because the spirit of the law is the same. They could be included because some of the equipment is the same.

Rep. Ellerd - When a dealer makes and knowingly signs his contract, does he know the buy-back terms? Rep. Jacobsen - Yes, but you can run into a year by year contract, and you may think you have a good contract, and you may have to put in a bunch of inventory, and the next time you have to make a new contract either you or the manufacturer wants to terminate that contract, you want 85% of your inventory to be returned. Rep. Ellerd - Are you compelled to buy it or is it ordered by the dealer himself? Rep. Jacobsen - The manufacturer will suggest what they think you need. Rep. Ellerd - But there is no responsibility by the manufacturer - you take it at your own choice? Rep. Jacobsen - Usually. Have to take enough repairs for a new model combine to supply needs. What is in the contract could vary.

Rep. Andreason - One of the bigger problems right now is that caused by termination of a contract? Rep. Jacobsen - Yes, basically you have your contract and you have to go to court on it. You don't have anything in the law that would cover your contract. As an example: a suit was completed after four years and the 85% wasn't anywhere near being achieved. Due to the competition in the market, he took on the Versatile and International filed suit on this.

Rep. O'Hara - 85% is in the John Deere contract?

Rep. Schultz - The bill only talks about farm equipment, does it talk about supplies? Rep. Jacobsen - Section 1 includes them. Hard parts are included.

Rep. Robbins - Page 2, line 4 shows the current net cost to be in effect on the date of termination. What if that stock had been in for three years? Mr. Poston - You would go back to "purchase invoice", 85% would come off that figure.

Rep. Wallin - What do you do with the special tools you were asked to buy to service that equipment. Rep. Jacobsen - If they service current model units, they also have to buy those back. Usually there are enough people in the area to use up filters, gaskets, etc.

Rep. Ellerd - Inflation seems to take care of everything - what does that do to the value of these returnable pieces of equipment that you are returning at 85% of the purchase price? They may be higher on the current market than they were when purchased.

Rep. Ellison - Are legislating security and protection again for individual businesses. Do you feel this is for the protection of the dealer against the manufacturer? What period do contracts run? Mr. Edwards - They notify the dealer that something would happen in two years. A contract for construction equipment is continuous. John Deere ended up with a yearly contract, and the heavy equipment is a continuous contract which goes on until either one wants to discontinue with at least a one year's notice.

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Rep. Ellison - Do you have buy-back on heavy equipment? Mr. Edwards - Yes. They buy back the whole equipment on 100% of the net cost, what the dealer purchased it for. They buy back repair parts at 85%, which could be well above what he paid for them several years ago. Rep. Ellison - Do you require a dealer to take a certain dollar amount of equipment during the year to maintain his contract? Mr. Edwards - Doesn't know. Wholesale goes to them for retail. Their inventory is financed for rather a lengthy time. Mr. Poston - The 'other yellow equipment manufacturer' has not followed your lead in an equitable and fair contract. There is a requirement to maintain certain inventory levels and they are shipped to you and you have to maintain your inventory at that level. Most farm equipment manufacturers don't finance their dealers.

Rep. Wallin - How about any other manufacturers, are they as favorable to the dealer? Ms. Tobin - National Farm and Power Equipment do try to come up with uniform contracts with all major manufacturers. They have been working towards this line. She didn't know anything about Versatile goods. They have some dealers who are very, very interested, and some that feel they do not need this legislation.

Rep. Fabrega - You appear as a knight in shining armor - do you have any objection to a law that all manufacturers should deal on a similar basis as your company? Mr. Edwards - Feels this law is the first step in regulation of such a process. Rep. J.Schultz - How many states have this sort of proviso? Mr. Edwards - 13 states, basically where agriculture plays a major role in their economy.

Rep. Schultz - Most of those provisions are agreed to in the first year. Now that you are in \$200-300,000 you are trapped and the terms become tougher on you as a dealer? Mr. Poston - It may turn into being asked to handle this many machines and so much inventory, etc. Rep. Schultz - Normally the conditions are set out when you originally sign, and terms are less agreeable when renewing the contract? Mr. Poston - Yes, this is the way it is. Maybe there are only one or two provisions that you agree to, but you have to do so because of sort of being trapped. That is the reason we need this kind of a bill. These are an annual renewable contract and the terms can change as can the goods. They do change the terms after the inventory has been built up in compliance with the original contract. Mr. Edwards - All contracts with John Deere have been improving this area.

Rep. Schultz - Do you see any great problem in providing this kind of protection for every dealer once he becomes entrapped? Rep. Jacobsen - On renewal a manufacturer can improve his position and be more dictatorial because you want to stay in business and you have to sign a contract that you wouldn't have signed in the original place. One company will do something and others will follow suit.

Rep. Fabrega - It is your understanding that an industry standard is to allow 85% to be returned? Mr. Edwards - He could only speak for Deere for parts. Contracts are continually being improved. Rep. Fabrega - Suppose you introduce a new line of John Deere equipment and the dealer may or may not wish to carry that line, is the contract renegotiable on this new line of equipment? Mr. Edwards - He agrees to carry a line of goods manufactured by Deere. He is expected to carry a line of all goods for Deere and model changes do come in.

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Rep. Ellerd - Are there actual cases in Montana? Mr. Hurd - They had an agreement with full return privilege if the product didn't sell. At the end of a one year period, the product had not sold, and they were interested in returning the goods, but they could not return them, and had to sell them as best they could. The manufacturer came in and said to sell. That was a company by the name of Chromoloy, Paykip took them over. They are only buying facilities not buying anything in the field. They will establish a new dealer.

Rep. Fabrega - Are manufacturers upgrading their position on renewal? Mr. Poston - A manufacturer required that facilities had a certain amount of square feet, and they already had the line in at a certain level, but would have to increase their facilities. Termination was based on a contract that allowed them to come in and say what parts are obsolete and what they would take back.

Rep. Schultz - Was that the situation in 1975 in the automobile dealerships? Mr. Raunig - Yes. This law has been in effect for motor vehicles. Because the law was on the books, nobody wanted to get involved with that.

Rep. Wallin - Would some dealer who was going broke have a buyer in the manufacturer? Mr. Jacobsen - This would make it easier to get financing because he would have a buyer for a certain amount of goods.

Rep. Jacobsen closed. He thought this had been covered very well. He would check with the John Deere dealer. They have two dealerships in both states. North Dakota law has worked well over there, and it wouldn't hurt to have it in Montana.

KEITH HOWARD, Dealers Association, there is implication that if you don't take their suggestions your contract may be terminated. White Farm purchased Moline, Oliver and Cockshutt. There were two dealers in one town and had to terminate them, and they didn't get much on their stock. This bill does what John Deere people have done. The manufacturer knows, the dealer knows.

There is the question of amending the equipment dealers into it. He would like to have a subcommittee provide an amendment to it.

EXECUTIVE SESSION -

A subcommittee was appointed to study HB 130. They were Rep. Jacobsen, Rep. Wallin, and Rep. Schultz.

HOUSE BILL 257 - Rep. Wallin moved HOUSE BILL 257 DO PASS. Motion carried unanimously.

REP. JENSEN TOOK OVER CHAIRMANSHIP.

HOUSE BILL 183 - Rep. Ellerd moved HOUSE BILL 183 DO NOT PASS. Another bill will be coming up.

Rep. Fabrega made a substitute motion that HOUSE BILL 183 DO PASS. He moved an amendment on page 3 be adopted. Discussion brought out the amendment does not state the difference between a state bank or a national bank. Does the director himself or would there be a hearing set up for the purpose of determining that criteria. Rep. Ellison thought the amendment should read

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'whoever' makes the decision rather than one person doing it. Perhaps the state banking board should do it.

Rep. Ellison moved for all motions pending that this bill not be considered at this time. He suggested that members of the State Banking Board be present for questioning. This motion was withdrawn to discuss other amendments.

Rep. Kitselman moved an amendment on page 2, line 11, following "located" delete "up to 3 miles"; line 12 following "municipality" insert "but within the county". In Billings the 3 mile limit is not long enough to cover the suburbs. This motion proposing an amendment was withdrawn.

Rep. Fabrega - This bill is the result of an intense study by an interim committee. He would not approve the amendment.

Rep. Jacobsen - Would have no problem with that amendment. In Plentywood and in Medicine Lake there is no bank. Medicine Lake is 20 miles south. It would allow the city closer to have a facility.

Rep. Robbins - Supports the motion because this bill doesn't help small towns. Three bankers are against it unless they can put a facility in the three towns that need it in his county.

Rep. Andreason - Favors the amendment.

Rep. Wallin - Definition of quality is troublesome to him. What does the amendment mean?

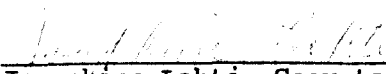
Rep. Kitselman - Just defining it as a geographic area. Grocery stores are acting as detached facilities. The service obviously is being addressed by the local shop owners. The rationale behind this is to allow some of the smaller towns to receive additional service through a detached facility.

Rep. Fabrega - The points made for the amendment have value, but would urge the committee to become familiar with the interim committee study. He suggested defeating the amendment at this time. Further action was postponed.

Meeting adjourned at 11:30 a.m.



REP. W. JAY FABREGA, CHAIRMAN



Josephine Lahti, Secretary

PROPOSED AMENDMENT BY REP. SHONTZ FOR HOUSE BILL 142 -

1. Page 1, line 19.

Following: "citizens"

Insert: "at the lowest possible cost"

NAME Larry Tveit Senator (27 Dist) BILL No. HB 142
ADDRESS RR 1 Box 117 Fairview, Mont DATE 1/27/81
WHOM DO YOU REPRESENT Self
SUPPORT yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: statement left with secretary

Hearing House Bill 142 Freight Carriers

Larry Truitt Senate Dist 27

Chairman, members of committee

I support bill for these reasons

Public Service Commission has ignored

the problems of taking care of the freight

carriers to small towns. ~~Sidney~~ Business

men of Sidney have written to PSC on problems

with no response. With tremendous growth in

Sidney and Eastern Montana and the Pulling out of B.N.
and service communities

the left holding the bag. Competition in freight

service or in any entity is healthy and I strongly

urge the passage of this bill.

NAME

Vern Henderson

BILL No. H3142

ADDRESS

Route Box 111 Sedney

DATE 1-27-81

WHOM DO YOU REPRESENT

Community

SUPPORT

☒

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We need more common carrier service, but the existing ones, which not adequately serving the people, block any new service, from being allowed to.

NAME Albert Dige BILL No. 142

ADDRESS Sidney DATE 1-27-81

WHOM DO YOU REPRESENT Self

SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME

Hugo J. Psbeck

BILL No.

HB 142

ADDRESS

271 Beck's Court

DATE

Jan 23, 1951

WHOM DO YOU REPRESENT

Self

SUPPORT

yes

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

parts service goes to W. J. Sten
and then back to salary taking one long
or a week.

NAME Shirley Henderson BILL No. 149
ADDRESS 1201 S. 10th St DATE JAN 27-81
WHOM DO YOU REPRESENT Self - Member
SUPPORT Yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*It is almost impossible to get prices
on Monday - come tomorrow at least if crops
waiting for price.*

NAME Laurie A. Jorgensen BILL No. 142
ADDRESS Rt 2 Sonage Mt DATE 1/27/81
WHOM DO YOU REPRESENT self
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Harold J. Jorgensen BILL No. 142
ADDRESS _____ DATE 1-27-81
WHOM DO YOU REPRESENT Self
SUPPORT X OPPOSE 0 AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Wilbur Rupp BILL No. 142
ADDRESS Sidney DATE 1-27-81
WHOM DO YOU REPRESENT self
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Ben Haveland BILL No. 142
ADDRESS Helena DATE 1/22/51
WHOM DO YOU REPRESENT Montana Motor Company, Inc.
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Don Hooley

The bill, by adding the consideration of "competition" to the criteria of "public convenience and necessity" established 50 years ago by the Legislature as a standard for the Public Service Commission in considering common carrier authority applications and disallowing profit loss and volume loss by an existing carrier, would have the effect of "deregulating" the intrastate motor carrier industry by freeing up entry requirements. The PSC could, under HB 142, grant approval to anyone who wants to get into the common carrier trucking business notwithstanding the negative economic impact on an existing carrier.

It is a misguided notion that to allow more people into the trucking industry will thereby make it more competitive, improve service and perhaps cut costs. The fact of the matter is that easing entry requirements will have the opposite effect. In any area of the State there is only a certain volume of intrastate traffic, no matter who transports it. It may be more or less, depending upon population. Adding additional trucks and trucking companies will not engender more freight to be hauled between points or to an area. The result will be more trucks traveling empty, more fuel used, less all-around stability, elimination of many carriers and reduction in the service to many Montana communities, particularly smaller ones.

Adding the element of so called "competition" will only assure existence of another carrier with the result that volume of traffic of first carrier is diminished with the result neither carrier can make sufficient revenue to make an adequate return. The result is two weak carriers, neither of whom can provide full service; that is (1) serve all points in their area consistently; (2) pay shippers on damage claims; and (3) carry full insurance to pay accident claims.

Regulation of the Motor Carrier Industry in Montana was first enacted in the 1931 session and was designed to establish balance by providing nondiscriminatory service at equitable rates set and approved by the Public Service Commission based on the cost of that service plus a reasonable profit. This is the concept of common carriage.

The basis of the 1931 Motor Carrier Act was to eliminate "business competition" from consideration because carriers operated on a shoestring in mom and pop operations, not honoring damage claims to freight; not carrying insurance because it was too expensive and serving areas on a sporadic basis. Under the law, in exchange for PSC authority to serve specific points or an area, a motor carrier agrees to haul for any shipper and is prohibited from discrimination through preferential rates or services. A PSC (MRC) certificate places truckers under a "common carrier obligation" to service all points on his route. Existing law as reflected in line 19, page 1, of the bill, affirms this intention by stating, "The maintenance of a common carrier motor transportation system within Montana is hereby declared to be a public purpose." This statement is in direct conflict with the proposed language that precedes it in the bill..."the commission shall encourage a spirit of competition within the motor transportation system in order to provide a maximum amount of service to Montana citizens."

With inflation, escalating fuel costs, wages and equipment costs, the unpleasant truth is that routes to smaller isolated towns are less profitable or simply unprofitable for most common carrier trucking firms now operating in Montana. Greater volume hauls to larger communities within the area served can make up some of the profit loss to a common carrier.

An applicant wanting to "compete" for service with an existing carrier is not going to make application for the nonprofitable hauls, only for the more profitable points of service in the area. If the existing carrier cannot object on the basis of "profit loss" or "volume loss" resulting in the profit loss, what else is there? Because he is regulated and charges a uniform rate set by the PSC for the same commodities hauled in the area, he cannot raise the rates on the less profitable hauls to offset his losses. There is no latitude up or down in the rate structure for him to adjust unilaterally. Any rate change will have to be approved by the PSC. Other than "fitness" of an applicant, that is experience in trucking, adequate equipment, willingness to advertise, etc., a protesting carrier has no other valid means of protesting the entry of new carriage other than on a projected loss of tonnage and then loss of revenue.

Removal of that defense makes the existing carrier helpless. Most of these carriers are small with limited revenue, living in small towns in Montana. They are not large, well financed carriers from out of State who could tolerate diversion of revenue and still serve.

HB 142 is directed against Montana Citizens who operate small limited carrier operations in limited areas. Destroy their ability to defend and these small carriers are out of business.

Even without "competition" for the so-called "gravy hauls", a marginal existing carrier cannot give up his obligation to serve and pull out of the area without PSC approval. He would have to continue service until a replacement carrier could be approved. In other words, he cannot exit from the area. HB 142 does not provide for any easing of the "exit" standard as it would for "entry". HB 142 only provides for partial deregulation.

Under a totally deregulated system, any carrier can come and go without fulfilling any local service obligation. The piecemeal deregulation in HB 142 is not, in our opinion, in the best interest of the State of Montana at this time. Certainly a good deal of study of the impact of changing the policy of a regulated motor carrier industry in the State must be made before enacting the changes in HB 142. The State must make a decision to fully deregulate or continue with its 50 year old policy that has provided a long-standing sound commodity transportation system in Montana. Passage of HB 142 would create uncertainties within the intrastate trucking industry, to shippers and consumers.

As you know, Montana is the fourth largest state in area with three-quarters of a million people in 475 communities, 40% of which do not have rail service. The people of Montana are extremely dependent upon reliable and cost-efficient truck service.

In Montana with its vast area and small population, the deregulation concept as adopted by recent Federal Law, cannot in our opinion be applied. Recent Federal "motor carrier reform", is based on some statistics reflecting: (1) A 6,000 person population, national averages per mile with actual averages in the West and Montana at less than two persons per mile; (2) the existence of many motor carriers to serve this 6,000 person population per mile; (3) the ability of each carrier to provide service equally, that is each carrier already has in place freight terminals, repair shops, and enough vehicles, both linehaul and pick-up delivery vehicles; and (4) a trucking company who complies with insurance requirements, honors claims and can make safety inspections of all vehicles.

These situations do not exist in Montana.

Recent changes in the Federal Law, effective July 1, 1980, easing entry into the Interstate Motor Carrier business, have created uncertainties in the industry and to shippers and consumers that only time and lawsuits can resolve. With the easing of entry requirements, the new federal law does, however, grant carriers some flexibility in rates: A 10% factor can be charged allowing for up and down flexibility. The federal law provides for several studies as to the impact it will make on the interstate industry including: The elimination of "collective ratemaking"; uniform state regulations of licensing, registration and filings; and the impact of the new system on service to small communities. The results are to be studied over the next 18 months to 2 years. We would certainly recommend that Montana not rush into major changes in existing law that could result in detrimental results without a similar assessment.

HB 142 assumes transportation problems that exist on a local level to be "intrastate" in nature. Actually, only a small amount of tonnage is intrastate in nature (3% intrastate, 97% interstate). Local problems may be, and very probably are, concerned with "interstate" shipments; that is, those originating outside of Montana. Interstate service problems are not met by this legislation.

The Montana Motor Carrier Act provides a procedure for taking any action against a common carrier not providing adequate service to any community. The PSC, following a show cause hearing can take action to discipline any carrier not meeting his obligation. It is not necessary to completely change our law to resolve a local problem of service.

NAME Edley Nave BILL No. 15118
ADDRESS Box 511, Nantux DATE 1/22/81
WHOM DO YOU REPRESENT Mr. Nave President Assoc.
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Wayne Reed BILL No. HB 142
ADDRESS 1227 1st St DATE 1/24/21
WHOM DO YOU REPRESENT Mo. Gen. Assembly
SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Information is required

NAME Jerry R. Davis BILL No. 287
ADDRESS Helena DATE 1-27-61
WHOM DO YOU REPRESENT Mont. Anti Airplane Association
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME _____ BILL No. _____

ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT _____

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Wm. H. H. H. H. BILL No. 11
ADDRESS 1111 11th St. DATE 11/11/11
WHOM DO YOU REPRESENT 11th District
SUPPORT 11 OPPOSE 11 AMEND 11

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME John P. Pochard BILL No. 130
ADDRESS #21 2225 1st Ave Hoboken DATE 1/27
WHOM DO YOU REPRESENT West Mount Tractor
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME B. Long Head BILL No. 130
ADDRESS Box 2217 Highway 140 DATE 1-2-81
WHOM DO YOU REPRESENT Western Teachers (C)
SUPPORT ☒ OPPOSE ☒ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME

RAY EDWARDS

BILL No.

H 130

ADDRESS

310 Hubbell Bldg., Des Moines, Iowa

DATE

1-27-81

WHOM DO YOU REPRESENT

Deere & Company

SUPPORT

OPPOSE

X

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Message telephoned to B&T secretary 1/23.

NAME RICHARD DUCALLY BILL No. 130
ADDRESS Sacramento DATE 1/23/81
WHOM DO YOU REPRESENT Ford Motor Office in Sacramento.
SUPPORT _____ OPPOSE X AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Dugally is the manager of governmental affairs for the Ford Motor Office in Sacramento (916-442-2929). He opposes HB 130 because he thinks the dealer-manufacturer agreement covers this problem and that a prior contractual agreement should govern.

Franchise agreements are made on an equal basis with the implement dealer having his attorneys and the manufacturer having his attorneys when the agreement is drawn up agreeing to the franchise arrangement.

RICHARD L. DUGALLY-REGIONAL MANAGER
925 L ST SUITE 260
SACRAMENTO CA 95814



Mailgram



4-061031S026 01/26/71 ICS IPNRHCZ CSP HELA
0164422929 MGM TDRN SACRAMENTO CA 116 01-26 0059P EST

LET J. FABREGA, CHAIRMAN
STATE CAPITOL
HELENA MT 59620

FORD MOTOR COMPANY AND OUR SUBSIDIARY FORD TRACTOR OPERATIONS OPPOSE
PASSAGE OF MONTANA HOUSE BILL 130 (IN ITS PRESENT FORM) AN ACT
PROVIDING A REMEDY FOR FARM IMPLEMENT DEALERS UPON TERMINATION OF A
CONTRACT WITH A DISTRIBUTOR OR MANUFACTURER.

WE HAVE SOME SUGGESTED LANGUAGE CHANGES WHICH MIGHT REMOVE OUR
OPPOSITION OF THE LEGISLATION AND I WILL BE CONTACTING THE AUTHOR IN
THE NEXT COUPLE OF DAYS. IN THE MEANTIME, WE DON'T THINK IT IS
APPROPRIATE FOR THE STATE TO PASS LEGISLATION WHICH WOULD NULLIFY
EXISTING CONTRACTS BETWEEN PRIVATE PARTIES.

RICHARD L. DUGALLY
REGIONAL MANAGER
GOVERNMENTAL AFFAIRS
FORD MOTOR COMPANY
925 L ST SUITE 260
SACRAMENTO CA 95814

0103 EST

WEMCOOF MGM

WESTERN UNION
437 S. CASALLE
CHICAGO IL 60605

western union

Mailgram



1-2170071026005 01/26/81 ICS CH00350
00177 ELIN VA 01/26/81

← HELA

THE HONORABLE BOB ELLERD
CAPITOL STATION
HELENA MT 59620

HB 130

THE FARM AND INDUSTRIAL EQUIPMENT INSTITUTE (FIEI) BEING UNABLE TO PARTICIPATE IN PERSON IN THE HEARINGS SCHEDULED FOR TUESDAY, JANUARY 27 ON H.B. 130, RESPECTFULLY REQUESTS THAT THE COPY OF THIS MAILGRAM BE INCLUDED IN THE CONSIDERATION OF THE PROPOSED LEGISLATION AND RECORD OF THE JANUARY 27 HEARINGS.

THE INSTITUTE IS NOT OPPOSED IN PRINCIPAL TO FARM IMPLEMENT REPURCHASE LEGISLATION BUT DOES HAVE SOME SERIOUS RESERVATIONS ABOUT THE LANGUAGE CONTAINED IN H.B. 130 AND THEREFORE OPPOSES ITS ADOPTION. SOME OF THE LANGUAGE IS VAGUE, CONTRADICTORY, AND THERE IS A NOTICEABLE LACK OF DEFINITIONS. WE WOULD PREFER THE MONTANA LEGISLATURE CONSIDER REPURCHASE LEGISLATION THAT IS NOW BEING CONSIDERED BY THE MISSOURI LEGISLATURE (S.B. 223) OR THE LAW NOW IN EFFECT IN MINNESOTA.

WE WOULD BE WILLING TO MEET WITH REPRESENTATIVE JACOBSEN AT HIS EARLIEST CONVENIENCE TO DISCUSS AMENDMENTS TO HLB. 130 WHICH WOULD ALLEVIATE MUCH OF OUR CONCERNS AND PROVIDE BETTER PROTECTION TO THE IMPLEMENT DEALERS OF MONTANA.

WE APPRECIATE THE CONSIDERATION OF THE COMMITTEE AND WELCOME ANY QUESTIONS OR COMMENTS THE COMMITTEE MIGHT HAVE REGARDING OUR STATEMENT AND POSITION ON H.B. 130.

L. JAMES NELSON
DIRECTOR, GOVERNMENT RELATIONS
410 NORTH MICHIGAN AVE.
CHICAGO, IL 60611
312/321-1470

CC: MEMBERS OF THE HOUSE BUSINESS & INDUSTRY COMMITTEE
MS. SANNI TORIN, MONTANA HARDWARE & IMPLEMENT ASSOCIATION
9503 BUI

AMCONP MOM

WESTERN UNION
417 E. LASALLE
CHICAGO IL 60605

western union

Mailgram



1-217007026019 01/26/81 ICS CH05350
00191 MLTN VA 01/26/81

WELA

THE HONORABLE JAY FARRERCHA CHAIRMAN
HOUSE BUSINESS & INDUSTRY COMMITTEE
CAPITOL STATION
HELENA MT 59620

THE FARM AND INDUSTRIAL EQUIPMENT INSTITUTE (FIEI) BEING UNABLE TO PARTICIPATE IN PERSON IN THE HEARINGS SCHEDULED FOR TUESDAY, JANUARY 27 ON H.B. 130, RESPECTFULLY REQUESTS THAT THE COPY OF THIS MAILGRAM BE INCLUDED IN THE CONSIDERATION OF THE PROPOSED LEGISLATION AND RECORD OF THE JANUARY 27 HEARINGS.

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L. JAMES NELSON
DIRECTOR, GOVERNMENT RELATIONS
410 NORTH MICHIGAN AVE.
CHICAGO, IL 60611
312/321-1470

CC: MEMBERS OF THE HOUSE BUSINESS & INDUSTRY COMMITTEE
MS. SANNI TODIN, MONTANA HARDWARE & IMPLEMENT ASSOCIATION
346 EST

ENDCOPR NCM

NAME Donna Marie Campbell BILL No. 110-100
ADDRESS 1100 N. 1st St. DATE 11/1/74
WHOM DO YOU REPRESENT 1100 N. 1st St. Co.
SUPPORT X OPPOSE AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

HB 130

DEERE & COMPANY

310 HUBBELL BUILDING DES MOINES, IOWA 50309 U.S.A.

*Subcommittee
Exhibit*



28 January 1981

The Honorable James M. Schultz
State Representative
State House
Helena, Montana 59601

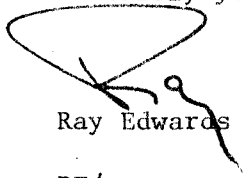
Dear Mr. Schultz:

When I met with your subcommittee on House Bill 130 yesterday, I mentioned I would be sending you the enclosed listing of specific items that should be excluded from a "buy-back" bill such as H. 130.

The items listed have been taken from a proposed Missouri bill.

If these types of specific exclusions meet with your approval, a new section to H. 130 could simply be added as was done in the Missouri bill.

Sincerely yours,


Ray Edwards

RE/ms

*This Bill has not passed
in Missouri*

*Didn't
Think that
Getting
You
it was
the main point*

taken from a proposed Minnesota law

Section 5. The provisions of this act shall not require

2 the repurchase from a retailer of:

3 (1) Any repair part which has a limited storage life or
4 is otherwise subject to deterioration, such as rubber items,
5 gaskets or batteries;

6 (2) Any repair part which is in a broken or damaged
7 package;

8 (3) Any single repair part which is priced as a set of
9 two or more items;

10 (4) Any repair part which because of its condition is
11 not resalable as a new part without repackaging or
12 reconditioning;

13 (5) Any inventory for which the retailer is unable to
14 furnish evidence, satisfactory to the wholesaler,
15 manufacturer or distributor, of title, free and clear of all
16 claims, liens and encumbrances;

17 (6) Any inventory which the retailer desires to keep,
18 provided the retailer has a contractual right to do so;

19 (7) Any farm implements, machinery, and attachments
20 which are not listed as current in the parts price list in
21 effect at the time of termination or which are not current
22 models or which are not in new, unused, undamaged,
23 complete condition;

24 (8) Any repair parts which are not in new, unused,
25 undamaged condition;

26 (9) Any farm implements, machinery or attachments
27 which were purchased twenty-four months or more prior to
28 notice of termination of the contract;

29 (10) Any inventory which was ordered by the retailer
30 on or after the date of notification of termination of the
31 contract;

32 (11) Any inventory which was acquired by the retailer
33 from any source other than the wholesaler, manufacturer
34 or distributor.

Relating to franchise agreements between retailers and wholesalers, manufacturers and distributors, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section 1. As used in this act unless the context clearly requires otherwise the following terms mean:

(1) "Current model" shall mean a model listed in the wholesaler's, manufacturer's or distributor's current sales manual or any supplements hereto;

(2) "Current net price" shall mean the price listed in the wholesaler's, manufacturer's or distributor's price list or catalogue in effect at the time the contract is cancelled or discontinued, less any applicable trade and cash discounts;

(3) "Retailer" shall mean any person, firm or corporation engaged in the business of selling and retailing farm implements, machinery, attachments or repair parts, but shall not include retailers of petroleum and motor vehicle and related automotive care and replacement products normally sold by such retailers and shall not include retailers of lawn and garden equipment not primarily engaged in the farm equipment business;

(4) "Inventory" shall mean farm implements, machinery, attachments and repair parts;

(5) "Net cost" means the price the retailer actually paid for the merchandise to the wholesaler, manufacturer or distributor, plus freight from the wholesaler's, manufacturer's, or distributor's location to the dealer's location.

Section 2. Whenever any retailer enters into a franchise agreement, evidenced by a contract, with a wholesaler, manufacturer or distributor wherein the retailer agrees to maintain an inventory and the contract is terminated, then the wholesaler, manufacturer or distributor shall repurchase the inventory as provided in this act. The retailer may keep the inventory if he desires. If the retailer has any outstanding debts to the wholesaler, manufacturer or distributor then the repurchase amount may be credited to the retailer's account.

Section 3. The wholesaler, manufacturer or distributor shall repurchase that inventory previously purchased from him and held by the retailer on the date of termination of the contract. The wholesaler, manufacturer or distributor shall pay one hundred percent of the net cost of all new, unsold, undamaged and complete farm implements, machinery, and attachments and eighty-five percent of the current net price of all new, unused and undamaged repair parts. The wholesaler, manufacturer or distributor shall pay the retailer five percent of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packing and loading in lieu of paying the five percent for these services.

Section 4. Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor.

Section 5. The provisions of this act shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any farm implements, machinery, and attachments which are not listed as current in the parts price list in effect at the time of termination or which are not current models or which are not in new, unused, undamaged, complete condition;

(8) Any repair parts which are not in new, unused, undamaged condition;

(9) Any farm implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor.

Section 6. If any wholesaler, manufacturer or distributor shall fail or refuse to repurchase any inventory as required by Section 3 of this act, he shall be civilly liable for one hundred percent of the current net price of the inventory, plus any freight charges paid by the retailer, the retailer's attorney's fees, and court costs.

Section 7. In the event of the death of the retailer or the majority stockholder of a corporation operating as a retailer, the wholesaler, manufacturer or distributor shall, at the option of the heir or heirs, repurchase the inventory from the heir or heirs of the retailer or majority stockholder as if the wholesaler, manufacturer or distributor had terminate the contract. The heir or heirs shall have one year from the date of the death of the retailer or majority stockholder to exercise their options under this act. Nothing in this act shall require the repurchase of any inventory if the heir or heirs and wholesaler, manufacturer or distributor enter into a new contract to operate the retail dealership.

Section 8. The provisions of this act shall not be construed to affect in any way any security interest which the wholesaler, manufacturer

or distributor may have in the inventory of the retailer, and any repurchase hereunder shall not be subject to the provisions of the bulk sales law. The retailer, wholesaler, manufacturer or distributor may furnish a representative to inspect all parts and certify their acceptability when packed for shipment.

Section 9. The provisions of this act shall apply to all contracts entered into or renewed after the effective date of this act. Any contract in force and effect on the effective date of this act, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior to this act. The provisions of this act shall apply only to inventory purchased after the effective date of this act.

PROPOSED AMENDMENTS ON HOUSE BILL 130 - Subcommittee amendments.

1. Title, line 5
Following: "IMPLEMENT"
Insert: "AND HEAVY EQUIPMENT"
2. Page 1, line 15
Following: "implements"
Insert: "or heavy equipment"
3. Page 1, following line 18
Insert: "(3) "Heavy equipment" includes logging, mining,
construction and other heavy implement, attachment, repair
and replacement parts for equipment, machinery and attachments."

Renumber: subsequent subsection.
4. Page 1, line 25
Following: "implements"
Insert: "or heavy equipment"
5. Page 2, line 17
Following: "implements"
Insert: "or heavy equipment"
6. Page 2, line 25
Before: "not"
Insert: "or heavy equipment"
7. Page 3, line 4
Following: "implements"
Insert: "or heavy equipment"
8. Page 3, line 11
Following: "implements"
Insert: "or heavy equipment"
9. Page 3, line 1 and line 2
Following: "the"
Strike: "price of farm implements"
Insert: "repayment"
10. Page 3, line 8
Following: "retailer"
Insert: ", such implements or parts that are no longer carried on
such price lists or catalogs and were not purchased by the
retailer within the 60 months prior to the termination date
shall be deemed obsolete and beyond the purview of this act.
The repayment required to any retailer for new, unused
whole goods regardless of model year shall be 100% of
invoice price."
11. Page 2, line 6 through line 9
Following: "contract"
Strike: all language
Insert: "."

12. Page 3, line 4
Following: "taking"
Strike: "100%"
Insert: "85%"

13. Page 3, following line 8
Insert: "Section 5. In the event of the death of the retailer or the majority stockholder of a corporation operating as a retailer, manufacturer or distributor shall, at the option of the heir or heirs, repurchase the inventory from the heir or heirs of the retailer or majority stockholder as if the manufacturer or distributor had terminated the contract. The heir or heirs shall have one year from the date of the death of the retailer or majority stockholder to exercise their options under this act. Nothing in this act shall require the repurchase of any inventory if the heir or heirs and manufacturer or distributor enter into a new contract to operate the retail dealership."

Renumber: subsequent sections

2-1-58

AMENDMENTS PROPOSED BY REP. JACOBSEN for HB 132.

1. Title, line 6
Following: "than"
Strike: "\$300,000"
Insert: "\$100,000"

2. Title, line 9
Following: "VARIANCES;"
Insert: "EXCLUDING FACTORY-BUILT BUILDINGS AND RECREATIONAL VEHICLES AND
ELEVATORS FROM PROVISIONS OF THIS ACT;"

3. Page 1, line 23
Following: "exceed"
Strike: "\$300,000"
Insert: "\$100,000, unless the local legislative body or board of county
commissioners by ordinance or resolution makes its building code
applicable to the structures"

4. Page 5, line 3
Following: "structures"
Strike: "."
Insert: ", but refunds are not required from counties or municipalities"

5. Page 5
Following: Line 22
Insert: "Section 6. Exclusion of factory-built buildings and recreational
vehicles and elevators. Provisions of [this act] are not applicable to
factory-built buildings and recreational vehicles under Title 50, chapter 60,
part 4, or to elevators under Title 50, chapter 60, part 7."

Renumber all subsequent sections.

PROPOSED AMENDMENTS ON HOUSE BILL 130 - Subcommittee amendments.

1. Title, line 5

Following: "IMPLEMENT"

Insert: "AND HEAVY EQUIPMENT"

2. Page 1, line 15

Following: "implements"

Insert: "on heavy equipment"

3. Page 1, following line 18

Insert: "(3) "Heavy equipment" includes logging, mining, construction and other heavy implement, attachment, repair and replacement parts for equipment, machinery and attachments."

Renumber: subsequent subsection.

4. Page 1, line 25

Following: "implements"

Insert: "or heavy equipment"

5. Page 2, line 17

Following: "implements"

Insert: "or heavy equipment"

6. Page 2, line 25

Before: "not"

Insert: "or heavy equipment"

7. Page 3, line 4

Following: "implements"

Insert: "or heavy equipment"

8. Page 3, line 11

Following: "implements"

Insert: "or heavy equipment"

9. Page 3, line 1 and line 2

Following: "the"

Strike: "price of farm implements"

Insert: "repayment"

10. Page 3, line 8

Following: "retailer"

Insert: ", such implements or parts that are no longer carried on such price lists or catalogues shall be deemed obsolete and beyond the purview of this act. The repayment required to any retailer for new, unused whole goods shall be 100% of invoice price."

11. Page 2, line 6 through line 9

Following: "contract"

Strike: all language

Insert: "."

12. Page 3, line 4

Following: "taking"

Strike: "100%"

Insert: "85%"

PROPOSED AMENDMENTS ON HOUSE BILL 130 - Subcommittee amendments.

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Following: "IMPLEMENT"

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Before: "not"

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Insert: "or heavy equipment"

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Insert: "or heavy equipment"

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Following: "retailer"

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Following: "contract"

Strike: all language

Insert: "."

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Following: "taking"

Strike: "100%"

Insert: "85%"

SUGGESTED AMENDMENTS TO HOUSE BILL 183.

1. Page 3, following line 7.

Insert: "(7) (a) Any bank desiring to establish a detached facility shall execute and acknowledge an application, in writing, in the form prescribed by the department, and shall file the application within the department, together with a fee of \$500.

(b) The department shall approve an application if it finds that:

out → (i) the applicant bank meets current industry standards of capital adequacy, management quality, and asset condition;

out { (ii) the establishment of the proposed detached facility will improve the quality ~~and~~ increase the availability of banking services in the community to be served; and

→ (iii) the establishment of the proposed detached facility will not have an adverse effect upon the solvency of existing financial institutions in the community to be served. Otherwise, the department will deny the application.

Renumber: subsequent subsection.