

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 3, 1981

SUMMARIES OF

HOUSE BILL 349 -

Introduced by Rep. Underdal and others, establishes the "Montana Product Liability Act," limits liability for damages to eight years after purchase of the product or 12 years after the date of manufacture. The bill prohibits a claim for a specific dollar amount of damages, but requires the complaint to "seek such damages as are reasonable," grants limited immunity to a manufacturer or seller for damages resulting from alteration or misuse of products, and establishes a rebuttable presumption of freedom from defect.

AMENDMENT NEEDED: In the title, line 6, following "SELLERS OF PRODUCTS" the words "FOR DAMAGES" should be inserted.

HOUSE BILL 346 -

Introduced by Rep. Jensen and Senator Turnage, authorizes an irrigation district previously established to continue electrical power operations including generation, distribution, and sale of electricity.

HOUSE BILL 350 -

Introduced by Rep. Meyer and others, provides that if an applicant passes a portion of the real estate examination, he should not be required to repeat that portion. The bill also removes the present statutory ineligibility of a person who has failed the test twice to take it again for six months.

AMENDMENT NEEDED: In the title, lines 5 and 8, the word "EXAM" should be replaced by "EXAMINATION."

HOUSE BUSINESS AND INDUSTRY COMMITTEE

The meeting was called to order February 3, 1981, at 8:00 a.m., in room 129 of the Capitol Building, Helena, by Chairman Rep. W.J.Fabrega. All members of the committee were present. Bills to be heard were HBs 346, 349, 350.

HOUSE BILL 350 -

REP. DARRYL MEYER, House District #42, Cascade County, chief sponsor, explained HB 350 is an act to assure that if an applicant passes any portion of a real estate salesman's exam, he doesn't have to take that part over again. The state laws charge out-of-state salesmen \$25 to take the exam.

SCOTT CURREY, Montana Association of Realtors, Helena, said a similar system is now in effect in the state of Minnesota for accountants, geologists, architects, and they take a test and are given credit for the portion that they pass.

OPPONENTS: None

QUESTIONS -

Rep. O'Hara feels that is a way of limiting people to that profession. It seems competition of tests is for the purpose of that.

Rep. Harper - why do you weaken the test? The same information will be tested. If an applicant passes part of the test, why take that again if he hasn't passed part of it? There is no time period. Why shouldn't he be able to pass all the tests at once? Mr. Currey - if a client comes to him, he will look up the area in which the problem occurs. He is not required to know everything that you are supposed to know in a profession. He should be able to find answers when the question occurs. This won't lessen the quality of the profession.

Rep. Kitselman - there are 50 questions on the general life insurance laws, disability has another 50 questions and you are required to take the whole thing. It takes 1-1/2 to 2 hours. What is the length of the test? Jo Driscoll said 4-1/2 hours are generally allowed. There are two separate portions - one portion deals with the contracts, finances, owners mortgages and debts, and the other portion covers just laws. It is not a multiple-choice test, neither is included in the financing portion. There are many types of problems.

Rep. Bergene asked if having to pay the \$25 fee for taking the test is the reason they want to be given credit for the part they pass. Rep. Fabrega - if you fail the test, you have to wait six months to take the test again? Jo Driscoll - if they fail, they cannot take the test for two weeks. If they fail the second time, they have to wait three months.

Rep. Manning - do real estate people have to know all these answers at the top of their head - can't they use books, etc., for answers? Rep. Meyer - some of the things asked are not used. Tests are only given every six months.

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Rep. Meyer closed.

HOUSE BILL 346 -

REP. WILLIAM RAY JENSEN, House District #25, Lake County, co-sponsor, said this bill will justifiably apply to a unique situation. If there are some irrigation districts in Montana that desire to go into the power business at this time, he didn't think that would be permitted. The Flathead Indian Irrigation and Power project paperwork began back in 1910, and because it is on Indian Reservation land it was put in the hands of the Bureau of Indian Affairs, and the administration of the power project has been through the 3 districts - the link between irrigation and administration signed a contract with the U.S. government to the effect that after half the construction costs were paid the project would be turned over to the water commissioners.

The project has arrived at that time now. In this contract it reads that they would have the right to distribute power and sell it at a rate sufficient enough for a project to be able to pay construction costs for the irrigation project. These districts are organized under Montana law and we are simply trying to get the Department of Indian Affairs to turn this project over to the local districts and they will have the same ability to carry on as they have been. This bill will allow this to be done. Montana Power might have something to say but they agree with this bill.

SENATOR TURNAGE, co-sponsor, said three districts were created under Title 85, chapter 7, part 10 of the Montana code. The three districts that are involved in this particular problem are parts of Lake, Sanders, and Missoula counties. The districts are much like a school district except they are organized by petition. They elect the members of the district boards like school district trustees are elected and the Montana code sets forth the operation. This is the only project in the U.S. that is situated in Lake County power. In 1910 they started the study of the irrigation project and the project was developed in the 20s and it irrigates considerable portions of Lake and Sanders Counties. Along about 1930 a license was issued to construct Kerr Dam which was issued by the U.S. and issued to MPC. The irrigation district was guaranteed a block of power and when the dam was completed, the block of power was utilized to provide irrigation and the homes in Flathead Valley from about the Lake County line on the north clear down into the Missoula County and Sanders County. It has grown into quite an important energy distribution facility. It is all operated under a contract with the U.S. The government made available the funds to construct the facility and under the contract the dists. had to agree that the U.S. might have it until it was half paid for and that has arrived.

The districts are going to be required to assume the entire operation free from any control and management and are apprehensive about being charged by the farmers in the district. The districts are composed of irrigable farm land and the ownership of the lands is vested in the farmers district - might have a lawsuit on their hands by some avaricious entity that might want to own it. They want to be sure that they won't be erased when the transfer comes.

OPPONENTS: None

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QUESTIONS -

Rep Ellison - the districts are relying on that electricity to pay for the project. It maintains the distribution system, builds new power lines and replaces the old ones, and the net revenue goes to pay the construction charge lien that is on all the lands which were pledged there to repay all the moneys advanced by the U.S. to the district.

Rep. Manning - how much energy does this make? Senator Turnage didn't know how much. It takes in everything from the Flathead County line, nearly all of Sanders County, Lake County with some small exceptions and into Missoula County. Probably 17-18,000 people in Lake County and virtually all of them are served; in Sanders 7-8000 - 20,000 people being served for all their electrical needs.

Rep. Fabrega - are rates determined by the PSC? Sen. Turnage - No, by the federal power agency. They probably have the lowest rates in the U.S. - they went from 1943 until 7 years ago with no increase. Would hate to lose that. Rep. Fabrega - this would then be operated as an REA? Similar operation.

Rep. Jensen closed.

HOUSE BILL 349 -

REP. MELVIN UNDERDAL, District #12, Toole County, chief sponsor of HB 349, explained this bill deals with product liability limitation.

Product liability means the legal responsibility of one who manufactures, repairs or sells a product to compensate a customer, user, employee of a customer or user, or even a mere bystander who suffers injury or damage alleged to have been caused by a defect in the product.

The nature of the legal responsibility of manufacturers and of distributors and dealers has been changing rapidly in recent years. Court decisions have widened the range of circumstances in which damages are awarded for injuries or loss where accidents occur with less and less regard for the real reason for injury or loss.

Taken altogether, the growth in the number of product liability suits filed, a judicial climate which tends to favor the case of the plaintiff, and the huge increases in the dollar amounts of the awards, product liability litigation is placing a tremendous financial burden on not only the insurance industry but the general economy. The impact of these suits affects almost every sector of the economy and hits especially hard at small business since it results in insurance rates that are prohibitive in cost. If present trends continue, a significant number of firms and jobs could be lost because of rising costs caused by product liability claims. These are mostly small operations that manufacture a number of useful products but cannot afford to continue because of the ever-present danger of damage suits. Premiums are already either economically unfeasible or unobtainable - 21% of product liability claims are associated with injuries which occurred more than 12 years after a machine was manufactured. According to American Alliance of Insurers, large loss claims increased 68% since 1975.

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HB 349 was patterned after Utah's product liability law which has substantially reduced losses since it became effective. Rep. Joe Whiteside of Utah stated in his letter that the law was doing the job and statistics prove it to be so as their losses and claims are far lower than ours according to population.

JAMES C. FARRAR, Fam Car Corporation, supports HB 349. He would echo all the things Mel said and because of no limit insurance rates are totally prohibitive, and they are selling automobiles without it. They are potentially subject to losing everything, and can't grow unless they can get such a bill through limiting manufacturer's liability. Costs would have to be passed on to that consumer, therefore a manufacturer's product is higher than they would have to be if rates could be lower. He feels this product liability law is needed by manufacturers, retailers and consumers.

ROBERT T. APPLEY, Fam Car, Shelby, supports HB 349. They built two cars and sold them in the state of Michigan. See EXHIBIT A. Insurance would have raised the price of the car so high that it would have been prohibitive to sell it. Got the kinks out and are going without the insurance. They are very expensive hand built cars and they are on the ground floor trying to get them out. This quote is the most favorable of those received.

REP. KITSELMAN - the insurance companies aren't trying to shirk their responsibility, but the fact that the court will award \$2 million settlement for the loss of mobility is the trend. It is not uncommon to have 6-10-30-100,000 for the manufacturer's liability. The bill puts a limit on that of 12 and 8 years after the initial manufacturer has sold it - that the person will still be held liable for. You are both helping the consumer and also relieving some of the problems with the limitations of the market. This would be a small manufacturing business. Some of the suits have been allowed up to \$50,000 in damages. Doctors are now forced to go "bare" and are taking the risk of being sued as are small manufacturers. Part of this is due to the court allowances.

PAT MELBY, Alliance of Insurers, is in support of products liability tort reform and supports HB 349. Tort reform was not introduced at the request of insurance companies, but at the request of small business. There are no well-defined limits on product liability. If losses increase, premiums increase. Can pass the additional cost on to the consumer, or he can "go bare" and go out of business. If we really are sincere about establishing a climate for small manufacturers and distributors to keep our young people here and provide them jobs, to encourage small business to be established or continue their business in Montana, we need this limitation.

JO DRISCOLL, Insurance Department of the State of Montana, serves on a task force having to do with product liability. There is federal legislation pending on such insurance. There have been very, very high losses and high court awards. Insurance costs would come down if insurance awards would come down. Products manufactured 50-60 years ago shouldn't be liable for claims as on present day products.

LARRY HUSS, Montana Auto Dealers Association, Helena, supports HB 349.

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ARNOLD KEUNNIG, Independent Insurance Agents of Montana, Helena, supports HB 349. He feels it is a very mild limit on product liability insurance and ultimately it will have an effect on the availability and cost of insurance.

AVIS ANN TOBIN, Montana Hardware and Implement Association, Helena, supports HB 349. It will help the small businessman. She told the story of a small hardware store owner who sold some rope without knowing the reason for the purchase. A fireman was practicing and the rope broke, and the store owner is going out of business because he is being sued.

DAVE GOSS, Billings Chamber of Commerce, Billings, supports HB 349. See his testimony, EXHIBIT B.

JANELLE FALLON, Montana Chamber of Commerce, Helena, and a member of the Federal Agency Task Force on Liability, supports HB 349. It is an area of much confusion and most people are not familiar with product liability. We don't need another state bureaucracy and are not setting up another state bureaucracy. For example, much information is not current. The problem has not gotten any better, and it hasn't gone away. The suing urge is crippling our U.S. businessmen. Product Liability premiums have increased greatly. Businesses that have had no lawsuits or claims, must pay or open themselves to suits.

JERRY RAUNIG, Montana Auto Dealers Association, Helena, supports HB 349. Support limiting immunity of a manufacturer or seller for alterations or repairs on a product that the seller or manufacturer is liable for that.

MIKE WALL, Montana Hardware and Iron Company, Helena, supports HB 349. Pass through the retailer to get to the manufacturer.

FRANK J. DAVIS, Montana State Pharmaceutical Association, Great Falls, supports HB 349. He is Executive Director of the Montana Pharmaceutical Manufacturers of Montana. They fill about 4.5 million prescriptions in a year. People are taking a lot of drugs. It is very difficult to predict what will happen, how many different drugs a person takes that they can't know about all of them. If a pharmacist fills a prescription and he fails to warn, he is open to lawsuit for not warning as to what might happen. Their only protection is to buy liability insurance and this is very expensive. Anything that can be done to lower the cost and keep the cost down will be welcome because they are going to raise their prices if insurance costs rise. Fortunately, there are few pharmacist's suits. Would feel more comfortable with this bill.

OPPONENTS -

MIKE MELOY, Montana Trial Lawyers Association, opposes HB 349. It was introduced in the Senate and they took everything out of the bill except the Statute of Limitations. It came to the house and they killed it in a previous session. Pat Melby said this is a pro-business bill and it would help the climate in Montana. Meloy doesn't agree. This bill does limit liability of certain manufacturers other than those under the statute

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of limitations because under section 5 on page 3 of the bill the manufacturer or seller is not liable for any injury that might occur as a result of a defect if an alteration or modification of that product had been done.

Comparative negligence - if the plaintiff was even the slightest bit negligent, a percentage of his negligence could be determined by the jury. If partially defective, and it was used in a different way from that intended, the jury can assess that and award the damages. If 50% is caused by the present owner, he cannot collect. By adding the words "substantial contributing cause", you are adding a new test that deals with and tells courts and juries how to treat personal injury cases and then you get a little bit like contributory negligence. If a farmer was only 20-30% negligent, he can't recover under this language.

Section 6 of the bill that no product has an effect unless the product was dangerous to the user - that is a rebuttable presumption. The plaintiff has to show that it was dangerous.

The heart of the bill is probably Section 3. That's the worst part of the bill because it says that no action can be brought for recovery of damages for injury after 12 years from the date of manufacture. This statute prohibits a lawsuit before the injury ever occurs. Statutes in Montana say 3 years from the date of injury. This would preclude his recovery possibly before injury ever occurred.

Insurance rates - those insurance rates are computed by insurance companies that don't reside in Montana and have experiences that haven't risen here. Different products manufacturers from out-of-state - Montana is an export state. Most manufacturers are out-of-state and Montanans are the people who have to buy the products. There is a real low incidence in Montana from product liability - .1% of all claims made are on product liability. A bill has been introduced in Congress so that such people can get insurance - this bill won't help that.

Pharmacists - the only time a seller is included in the bill is in Section 5 of the bill - the rest of the bill all relates to manufacturers. Where the consumer changes the use of the thing, the seller isn't protected under any other part of this bill. The person with the rope is because they want to find out who the manufacturer is. The seller is just the middleman and is not the one who created the defect. It is always the manufacturer who gets sued. If a pharmacist is a manufacturer and seller, he is usually a seller and he is liable only if he is a manufacturer. The statute of limitations with respect to drugs is a problem because of instances where, such as the DES babies, the drug was on the market for a long time and the impact is that this bill would have cut out any recovery in such cases.

This bill won't provide relief and it is going to hurt the consumer of Montana at the expense of manufacturers who don't reside here.

QUESTIONS -

Rep. Pavlovich - how many instances has there been in the state. Ms. Driscoll said she didn't know. The problem with Montana is that we have

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less than 800,000 population. The premise of insurance teaches that you have to have large numbers and so there aren't enough in Montana. If we are going to have a federal law on products, she would rather have a Montana law.

Rep. Jensen - are there any other products other than drugs that might be sold over 12 years after manufacture? Mr. Meloy - can't give any specific example. If something not caused by reasonable wear and tear, and a defect wasn't done by something you did in altering the car, if it didn't show up for 12 years after manufacture, there could be no lawsuit from it.

Rep. Wallin - manufacturer and seller gets sued jointly? Mr. Meloy - no reason to sue the seller. Rep. Wallin - would there be less lawsuits under the bill than there are now? Mr. Meloy didn't think it would reduce lawsuits - not many lawsuits in Montana.

Rep. Jensen - what is an unreasonably dangerous product? Mr. Meloy - it is dangerous to an extent beyond that which "could be contemplated by the ordinary and prudent buyer, consumer, or user of that product in that community considering the product's characteristics, propensities, risks, dangers, and uses together with any actual knowledge, training, or experience possessed by that particular buyer, user, or consumer".

Rep. Kitselman - statute of limitations says 8 years after the date of the initial purchase. Mr. Meloy - or 12 years after. If 12 years had expired from date of manufacture, you can't bring a suit. If more than 8 years from the date you had originally purchased the thing, you would be out. The reason they put the 8 years in was from the date of sale.

Rep. Bergene - how can this help the pharmacist? Mr. Meloy - in the area of failure to warn. Pharmacists are being encouraged to talk about drugs with their patients. They have material available to be able to tell clients possible dangers to them. You could be considered guilty of not informing about what the results could be. With a person taking 3-4-5 drugs, it is hard to tell what will happen to a person.

Rep. Andreason - is there anything that you could recommend that would fulfill the general purpose of this bill? Mr. Meloy - can't do anything about insurance rates in Montana because they are not computed in Montana. There are problems with sellers. Don't think we have any problem with the statute of limitations as it applies to sellers. A seller is brought into a lawsuit but he is protected somehow in the law already. Comparative negligence fair treatment lets the jury know what the guy did to the car to aid an accident.

Rep. Ellison - don't know if 8 or 12 is the right numbers, but it seems that the manufacturer's liability should end somewhere down the road. If we amended that to put 12 years or 3 years after discovery, would that help you? Mr. Meloy - that would not provide a time limit on the manufacturer's liability. Wouldn't put a limit on the manufacturer's liability. The injury could happen, the time limit would start from the time the injury occurred if amended that way. That's what we have juries for since they take into consideration if the car has been driven 250,000 miles.

Rep. Wallin - is the local jury going to find for the local man or for the out-of-state manufacturer?

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Rep. Underdal closed. There have been high awards in all insurance fields. In the case of Fam Car, we are depriving a segment of society which has long been ignored of a method of transportation which is safe and reliable. Malfunction of Marlene's car caused the death of his son.

Our laws have been discouraging to those who are innovative and inventive and have built products that are beneficial to various types of consumers. This would apply to the medical as well as machinery and many other products. We are not protecting those who manufacture inferior products, but we are trying to protect manufacturers from those who misuse or are careless with a product.

Montana is an export state. How can we be anything but an export state with the handicaps we are placing on those who would produce?

He hoped for favorable consideration.

EXECUTIVE SESSION -

Rep. Meyer moved HOUSE BILL 350 DO PASS. He feels that if you pass part of the test you know that and it is senseless to take the passed portion over again - it doesn't make the test any easier. Rep. Jensen said many other professions allow you to pass part of the test and hold that for a time. He sees no reason why this shouldn't come in that category. Rep. Robbins is in favor of this bill. There are so many things in there that test your ability to use your head - real tough test.

Rep. Meyer further moved HB 350 be amended to include an effective date to be on passage and approval. This motion passed unanimously.

Rep. Bergene mentioned a person cannot practice while waiting for the test to be given again. Rep. Harper asked what would happen to an exam by allowing a student to take an exam as often as he needs to take it. Rep. Fabrega said there are two distinct parts to the test - a written test like a driver's license exam, and a practical test. You take the other one where you actually go through the computation of taxes and all those mathematical parts of the test. You get separate scores.

Rep. Meyer reworded his motion to HOUSE BILL 350 DO PASS AS AMENDED. Motion was adopted unanimously.

Rep. Jensen moved HOUSE BILL 346 DO PASS. Motion carried unanimously.

A subcommittee was appointed to study HB 349. Reps. Wallin, Jacobsen, and Kitselman are to be the members. Rep. Kitselman is to be chairman.

Rep. Jensen moved HOUSE BILL 286 AS AMENDED DO PASS. Motion was adopted 18-1, Rep. Harper voted No. Rep. Jensen further moved the Statement of Intent for HB 286 be adopted. Motion was unanimous.

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Rep. Jensen moved HOUSE BILL 67 DO PASS. (There was a great deal of discussion on this bill and amendment.) Rep. Jensen further moved that amendments as proposed be adopted. Adopted unanimously with Reps. Vincent, Ellison, Meyer absent.

Rep. Ellerd moved the Statement of Intent be adopted. He also moved the Statement of Intent be amended in line 8 changing "anticipated" to "intended". Motion carried unanimously.

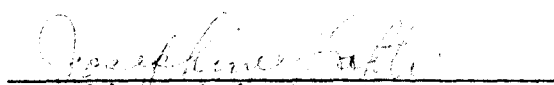
Rep. Harper moved page 6, line 10, following the ",", insert "except on state property". This amendment was adopted unanimously.

Rep. Jensen reworded his motion to HOUSE BILL 67 DO PASS AS AMENDED. Motion carried unanimously.

Some of the discussion on HB 67 revealed that the Loendorf-Sheppard Act requires that a state agency be overseer in federal buildings. If the service in the building is not bad and it is in the best interests of the people in the building, they have the option of choosing. The tendency to cream the best spots to maximize income would come into play. The only criteria would be that it would be inappropriate for a blind vendor to operate vending machines.

Meeting adjourned at 11:40.


REP. W. J. FABREGA


Josephine Lahti, Secretary

VISITORS' REGISTER

HOUSE

COMMITTEE

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Date _____

ENSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Amicall	Helena	Seaboard	HR 349	
Carl J Davis	Princeton	Pharmaceutical Assoc.	HR 349	
Wm. C. Tolin	Helena	Mont. House of Reps.	HR 349	
RUE (Mrs.)	Billings	Chamber of Commerce	HR 349	
Wm. T. Apple	Shelby	San Can	HR 349	
Wm. T. Apple	Shelby	San Can	HR 349	
Wm. T. Apple	Helena	MT. DEER. Bldg.	HR 350	
Wm. T. Apple	Helena	Mont. Chamber	HR 349	
Wm. T. Apple	Helena	MT. Trial Lawyers	HR 349	X
Wm. T. Apple	Helena	Mont. House of Reps.	HR 349	
Wm. T. Apple	Helena	Mont. Railroad Inc.	HR 349	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Scott Curry BILL No. HB 350

ADDRESS _____ DATE 2-3-61

WHOM DO YOU REPRESENT Mt. Assoc. of Realtors

SUPPORT L OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amendments to HB 349

1. Page 3.

Following: line 6.

Insert: "(2) Nothing in subsection (1) shall be construed to
create any new cause of action not already existing
in law."

Renumber: subsequent subsection.

2. Page 3, line 16.

Following: "reasonable"

Insert: "; provided, however, that such dollar amount is subject to
discovery under the Montana Rules of Civil Procedure."

NAME CHARLES C. FARRAR BILL No. 349
ADDRESS 625 1ST ST N. SPOON DATE 2-3-81
WHOM DO YOU REPRESENT FAM CAR CORP
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: WE FEEL THIS PRODUCT LIABILITY
LAW IS NEEDED BY MANUFACTURERS,
RETAILERS AND CONSUMERS.

NAME

Robert Appleby

BILL No.

H 3349

ADDRESS

907 Birch Ave Stults

DATE

2-3-81

WHOM DO YOU REPRESENT

For Cash

SUPPORT

Yes

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

#6349

Montgomery and Collins, Inc.

Surplus Line Brokers

Date: 2/5/79

Re: Farm-Car Corporation

Mr. John E. Kerpelce
Farmers Union Insurance
P.O. Box 2168-750 6th St. S.W.
Great Falls, Montana 59403

☒ QUOTATION VALID FOR 30 DAYS

☐ INDICATION ONLY

TERM: 1 year

COVERAGE: Products liability

Limits: (1) 300,000 CSL - \$5000 Minimum + 10% - 20.00/1000 Sales
(2) 500,000 CSL - 6000 " " " 24.00/1000 Sales

Deductible: 2500 B.T. + PD including less expense

Premium: See above

Inspection Yes ☒ No Additional invoice will be sent at time of report.

ADDITIONAL REMARKS OR PROVISIONS

Coverage on Occurrence basis.
Policy must be C/S by Leonard Montane Agent. - We
have one.

By: John W. Blum

2480 West 26th Avenue
Denver, Colorado 80211

Offices in major
cities throughout
the United States

Telex 045528
Cable Address: MONTMILE-DVR
An INA Corporation Company

NAME Jo Driscoll BILL No. HB 349
ADDRESS Helena DATE _____
WHOM DO YOU REPRESENT State of MT. Pro. Agent
SUPPORT ☒ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Arnold Kuennig BILL No. HB 349
ADDRESS Helm DATE 2/11/81
WHOM DO YOU REPRESENT Independent Bus. Asso. of Mont.
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

Name Larry Huss Date 2/3/81
Address Bx 514 Support ? ✓
Representing Mass Auto Dies Assoc. Oppose ? _____
Which Bill ? HB 349 Amend ? _____
Comments:

Please leave prepared statement with the committee secretary.

NAME Anis Am Tabiri BILL No. HB 349
ADDRESS Nelma DATE _____
WHOM DO YOU REPRESENT West Hill & Gospel House
SUPPORT ☒ OPPOSE _____ AMEND _____

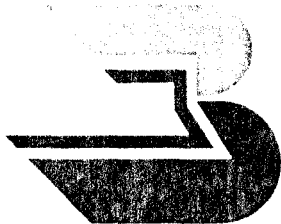
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME DAVE GOSS BILL No. 349
ADDRESS Billings, MT DATE _____
WHOM DO YOU REPRESENT Billings Chamber of Commerce
SUPPORT ☒ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



HOUSE BILL 349

The Billings Area Chamber of Commerce supports House Bill 349.

At the present time the only product liability law in Montana is case law, meaning that the courts have decided what public policy should be. The Chamber believes that this determination of public policy should be the responsibility of the legislature where a better cross-section of the state is represented and therefore better able to determine what the needs of the public are.

The Chamber feels that the reasons for enacting product liability legislation is fairly well spelled out in Section 2 of HB 349. It is true that the increasing cost of product liability insurance, like any cost of doing business, is passed onto the consumer. Therefore the higher the cost of insurance, the higher the cost of the product to the consumer. Opponents to product liability legislation may claim that these insurance premiums are only one percent of the sales on the average and thus cannot be considered significant. However the National Association of Wholesalers-Distributors, in a report they prepared on product liability legislation, stated: "With an average net profit of 1.7 percent of sales, it does not take much mathematical computation to realize the devastating impact of a one percent of sales average premium on wholesale-distributors."

The problem of product liability has also been recognized by the federal government. Among the findings of a Federal Interagency Task Force established by the White House in the mid-70's were:

- product liability insurance is unavailable as a practical matter for many businesses. This is due principally to tremendous cost increases experienced in recent years.
- New product development may be discouraged if the costs of product liability insurance continue to increase. Thus, some society-beneficial products may never be developed.

In October of 1979, the U.S. Department of Commerce published its "Uniform Product Liability Act" for use as a model in the drafting of legislation at the state level. While more detailed than HB 349, it does contain the same basic provisions. Today about half of the states have recognized the product liability problem and have enacted legislation. We hope Montana will do the same.

NAME JERRY RANNIG BILL No. HB 349
ADDRESS Helena DATE _____
WHOM DO YOU REPRESENT Mt. Auto Dealers Assn.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME FRANK J. DAVIS BILL No. 349
ADDRESS Great Falls DATE Feb 3
WHOM DO YOU REPRESENT Montain State Pharmaceutical Assoc
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Pharmacy interested in Merck and
failure to warn the patient on product
liability