

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 11, 1981

A meeting of the House Taxation Committee was held on Wednesday, March 11, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Vinger, who was excused. SENATE BILLS 134, 183, 231 and 279 were heard and EXECUTIVE ACTION was taken on SENATE BILL 284.

The first bill to be heard was SENATE BILL 134, sponsored by Sen. Roger Elliott. This bill will give an automatic six-month extension of time on State income tax return filing. The bill is geared the same as the federal returns, although the federal return gives somewhat less than six months; this measure will benefit the taxpayer.

Larry Weinberg, Department of Revenue, rose in SUPPORT of the bill. The bill was introduced at the request of the Department. The reason was to cut down on paper work. Last time there were 15,000 requests for a two-month extension and 3,000 more for additional time.

There were no OPPONENTS to SB 134; there were no questions from the Committee.

The sponsor then closed, and the hearing on SENATE BILL 134 was closed.

SENATE BILL 231, also sponsored by Sen. Elliott, was then heard. This bill addresses the problem of definition of corporate license holder. The bill was presented at the request of the Department of Revenue because they have trouble recognizing the definition in relation to retail liquor licenses.

Larry Weinberg, Department of Revenue, then spoke. This bill attempts to put into the statutes some criteria for issuing licenses to corporations in the liquor area. Requirements are worded to apply to an individual, and there are some references elsewhere to corporations. The Department doesn't consider itself bound by the provisions of this bill and if the Committee had any difficulties, the Department will address them. This bill was worked out in conjunction with the Liquor Division. Especially in the area of all-beverage licenses, out-of-state corporations weren't coming into the State and holding licenses. However, large corporations might own taverns in their establishments and the Department did want to keep from having them to have that kind of license when the corporation is a major out-of-State corporation. Controls are needed so that organized crime doesn't come into the State; individual applicant criteria has to be changed. Corporate applicant criteria is tied back into the qualifications of the stockholders.

There were no OPPONENTS to the bill. Questions were then asked. Rep. Nordtvedt pointed out that if each stockholder had to be checked out, this would make a lot of work for the Department. Mr. Weinberg said that if an application was made, certification would be made on behalf of the rest of the stockholders but only the big stock holders would be investigated. Rep. Nordtvedt said he couldn't see how a corporation could be asked to certify that all their stockholders weren't felons,

etc. Mr. Weinberg said this was part of the Department's investigation, but it was not something that the applicants had to swear to.

In response to Rep. Bertelsen, Mr. Weinberg said that if a corporation is on the National Stock Exchange, it is still not excused from the criteria on P. 5 of the bill. In addition, if the corporation isn't listed, it has to meet more than just the first 3 criteria on P. 5.

Rep. Williams wanted to know what the present procedure was, and Mr. Weinberg said it was basically the same as set out in the bill.

Sen. Elliott then closed. He commented that the bill had passed the Senate with no dissenting votes.

SENATE BILL 183, sponsored by Sen. Swede Hammond, was then heard. This bill was being carried by him because of the plight of people who had purchased lots and found that they were responsible for a rollback tax. He gave a short history on the tax. It has been subject to three Attorney General's opinions. The Attorney General said all lands are subject to this tax. It was asked what happens in 1975; how far is the rollback applied, and it was decided the full rollback couldn't be applied until 1978; it wasn't retroactive. In 1976 the Attorney General said that the mere filing of a subdivision plat doesn't constitute a change in use, so this made it impossible for the tax to do what it was intended to do in the first place.

In 1974 and 1975 there were 42 decisions appealed to the State Tax Appeals Board, and 35 of them granted the taxpayer continued agricultural status. There has been nothing but difficulty with this tax since its inception. In 1978 it was declared unconstitutional because it was a double tax. In February 1978 the staff attorney applied to District Court in Great Falls because it had been declared unconstitutional, and the matter is still in Court. The law has not done what it was intended to; it didn't deter the use of agricultural lands for other purposes. The developer isn't made aware of the tax until after the improvements are made. It has created a lot of hardships for people who have built homes.

Dennis Burr, Montana Taxpayers Association, then rose in support of the bill. This has been a harrassing measure to both land owners and the Department of Revenue. Every owner of land has to apply to the Department to keep their land as agricultural. Whether they applied or not the Department couldn't change it.

The person subdividing the land has to pay a penalty, in hopes that they would at least think about the impact of subdividing the land. However, the Attorney General decided that the developer wouldn't be affected, but the person who bought the land from him would have to pay the tax. The State Tax Appeals Board declared the State law unconstitutional. He doesn't feel there is anything unconstitutional about the law. The result of all the opinions is that people that have been taxed can appeal and avoid paying the tax. In addition, the tax is not being uniformly applied throughout the Counties. He

felt that repeal of the law would be the best thing that could possibly happen to it.

James T. Harrison, Jr., Montana Home Builders Association, then rose in support of the bill. The collection procedures are in a state of flux, varying between Counties. The notices often come out literally years after the person has purchased the land. Some people pay the tax; many others don't. There has been no concerted effort to collect these taxes. In addition to this, title policies have overlooked this tax, especially since it has been declared unconstitutional. The cost to the public and the State is that for every dollar being collected there will be \$5 in legal fees. This tax was poorly conceived; it might have been a good idea, but it just didn't work.

Larry Weinberg, Department of Revenue, said that the Department and the Montana Taxpayers Association agreed on this bill, and rose in support of the measure. This tax has been a nightmare to administer for the Department.

Scott Currey, Montana Association of Realtors, stated that the rollback tax had two purposes: (1) tax relief to farmers, and (2) to slow conversion of agricultural land to other uses. It hasn't been effective in either area. A study made for the Revenue Oversight Committee in 1979 concurred in the opinion that the rollback tax is not effective.

Mike Stephen, representing himself, then testified in support of the bill. He received a rollback tax notice in the mail recently, on land bought two years ago. The change of use occurred in 1966, when his house was built, and this has just now been assessed.

Another proponent who had also received a tax notice in the recent past testified, stating that his notice had been for \$400. In 1979 they and another buyer each bought 10 acres of agricultural land. They just now received the tax notice. This situation is unfair because taxes are being levied on the past use of the land.

Jerry Hamlin, a Helena home builder, then rose in support of the bill. It has been an administrative nightmare and has caused him several problems over the past eight years.

Chairman Nordtvedt added that there were several people from his area that would have been willing to testify in support of the bill, also.

There were no OPPONENTS to SB 183. Questions were then asked. Rep. Nordtvedt commented that he had sold and bought land as the seller he felt he felt a moral obligation to pay the tax, but as buyer of some land, he didn't have a seller with equal convictions.

Rep. Asay wanted to know why the law couldn't be applied as it was intended. Rep. Williams seconded his question. Rep. Nordtvedt said

the only way the tax could be collected was by putting a lien on the property and if the developers have sold the land, there is no way to collect except by putting on a lien.

Sen. Hammond said he didn't know of any way the law could be made to work because if the developer was made to pay, he would just pass the cost on to the buyer. Rep. Asay commented that if the tax was applied against the sale price, it might help the intent of the law.

Rep. Dozier wondered what the fiscal impact of the bill would be. Sen Hammond said there wouldn't be one because very few of the Counties had collected the tax. The people who had paid the tax had paid under protest. He submitted that the only way to clean up the situation was to repeal the tax. The hearing on SB 183 was then closed.

SENATE BILL 279, sponsored by Sen. Pat Goodover, was then heard. This bill was presented in order to standardize the timing of imposition of the table wine tax on wine distributors, and to impose a penalty and interest charge. The initiative to allow wine to be sold in grocery stores needed several amendments. The one thing that wasn't addressed during the amendment process was how the tax on wine would be paid. For years, distributors paid the tax after the liquor left the warehouse. The initiative called for paying the tax prior to sale, so they now pay their tax when they get the liquor from the State. Therefore, when they buy slow-moving products or stock up, they come in with a situation where the wine sits for several months and the tax has been paid. They have to borrow money to pay the tax. This bill allows them to pay the wine tax the same way they pay the beer tax. He added that the Department of Revenue had no objections to the bill.

Roger Tippy, Beer and Wine Wholesalers Association, then rose in support of the bill; see written testimony Exhibit "A." He said he saw no problem with inserting a section in this bill to agree with HB 528, if it passes. This bill could possibly save the distributors a few thousand dollars in cash flow per year, depending on the interest rates.

Larry Weinberg, Department of Revenue, then spoke. He gave some background on the language on P. 1, lines 21-24. When the law went through for the distributors, there was no provision as to penalty or interest for failure to comply. The Department had drafted legislation to provide for the same penalty as beer distributors were subject to.

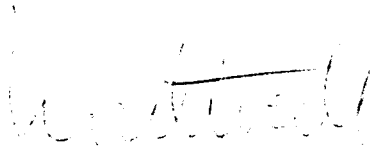
There was also another bill dealing with the timing of the tax and the two were combined in this bill. From the Department's point of view, the change from receipt to sale will present no problems to them. During transition, there will be a little more bookwork, but there shouldn't be much difficulty. The penalty and interest provision are to put the wine distributors in line with what the beer distributors have to do.

There were no OPPONENTS to the bill. Questions were asked. Rep. Williams wanted to know how the cigarette tax was collected. Mr. Tippy said he thought it was done on a meter basis every month.

Sen Goodover then closed, and the hearing on SENATE BILL 279 was closed.

The Committee then went into EXECUTIVE SESSION. Rep. Harrington moved that SENATE BILL 284 BE CONCURRED IN; motion carried unanimously.

The meeting was adjourned at 9:00 a.m.



Rep. Ken Nordtvedt, Chairman

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VISITORS' REGISTER

HOUSE Taxation

COMMITTEE

ULL SB 231

Date 3/11/81

SPONSOR Elliot

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

Taxation

COMMITTEE

ALL

SB 134

Date

3/11/81

SPONSOR

2110#

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE Texas

COMMITTEE

BILL SB 183

Date 3/11/01

SPONSOR Hammond

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME Scott Curry BILL No. 183
ADDRESS Archie Bud, Helena DATE 3-11
WHOM DO YOU REPRESENT MONT. ASSOCIATE ROGERS
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

/

VISITORS' REGISTER

HOUSE *Taxation*

COMMITTEE

LL SB 279

Date 3/11/81

SPONSOR *Goodman*

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

BEFORE THE TAXATION COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES
March 11, 1981

Senate Bill 279

) TESTIMONY OF MONTANA
) BEER & WINE WHOLESALERS
) ASSOCIATION IN SUPPORT

Mr. Chairman and committee members, I am Roger Tippy of Helena, representing the beer and wine wholesalers' association in support of SB 279. Our members include 33 of the 35 licensed wine distributors in Montana, and they urge your favorable consideration of this bill on the grounds of fairness and consistency.

1. Equal treatment with Department of Revenue:

Montana is one of two states where the private sector and the state liquor control agency compete with each other in the wine business. As subsection (3) of MCA section 16-1-411 indicates (p. 2, line 10), the state liquor division does not have to pay the tax on the wine it brings into the state until it sells that wine. Licensed wholesalers would ask to be treated the same as the liquor division in this regard, and the bill would do that by changing the word "receipt" to "sale" on page 1, line 19.

2. Consistent treatment with beer taxation:

Most of the wine distributors -- 30 out of the 35 -- are also in the wholesale beer business. Under MCA section 16-1-406, they pay the state tax on beer as they sell the beer out of their warehouses to the licensed tavern, grocery, and other retailers. The compliance record on payment of this beer tax is very good, and records are kept such that the department has adequate auditing opportunity. This proven record in the beer business demonstrates that a tax on wholesaler's withdrawals (sales) is quite collectible and reliable for the wine business as well.

3. Encourage importation of different wines:

Many of the best-selling, high-volume wines sit on the wholesaler's warehouse floor for only a few weeks. In such cases, the tax will come into the state coffers about as quickly whether it is imposed on wholesaler's receipt or wholesaler's sale of the product. The wine which is apt to sit on the floor for a longer period is the new or different wine, or a product which appeals to a smaller segment of the market. The present tax is a disincentive to distributors' willingness to experiment with new and different wines.

4. Economic fairness in times of high interest rates:
As the fiscal note indicates, the state will receive essentially the same amount of tax in the long run, except for taxes which would not be paid on breakage, spoilage, or otherwise unsalable wine. A mid-sized wine wholesaler has estimated that the time value of money it would save each year if the bill is enacted would be approximately \$2,700.00 with short-term financing running at 18% interest.

STANDING COMMITTEE REPORT

March 14 1951

MR. **SPEAKER**

We, your committee on **TAXATION**

having had under consideration **SENATE** Bill No. **134**

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15-30-144, MCA, TO PROVIDE FOR AN AUTOMATIC EXTENSION OF 6 MONTHS FOR FILING INCOME TAX RETURNS WITH NO ADDITIONAL EXTENSIONS OF TIME EXCEPT FOR MEMBERS OF THE MILITARY AND PERSONS LIVING OR TRAVELING OUTSIDE THE UNITED STATES OR PUERTO RICO; PROVIDING AN APPLICABILITY DATE."

Respectfully report as follows: That **SENATE** Bill No. **134**

BE CONCURRED IN
~~X DO PASS~~

STANDING COMMITTEE REPORT

March 14 19 51

MR. SPEAKER

TAXATION

We, your committee on

having had under consideration SENATE Bill No. 183

A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE ROLLEBACK TAX ON AGRICULTURAL LAND; DECLARING CERTAIN TAXES UNCOLLECTABLE DISCHARGED; AMENDING SECTION SECTIONS 15-7-207, 15-7-209, AND 15-7-210, MCA; REPEALING SECTIONS 15-7-204, 15-7-205, 15-7-207, 15-7-210, 15-7-211, 15-7-214, AND 15-7-215, AND 15-7-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 183

BE CONCURRED IN
DO PASS

STANDING COMMITTEE REPORT

March 14 1951

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 231

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS AND LICENSEES; ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSES OTHER THAN THOSE FOR ON-PREMISES CONSUMPTION; AMENDING SECTIONS 16-4-103, 16-4-108, AND 16-4-401, MCA."

Respectfully report as follows: That SENATE Bill No. 231

BE CONCURRED IN
DOUBTS

STANDING COMMITTEE REPORT

March 14 19 81

SPEAKER

MR.

TAXATION

We, your committee on

SENATE

279

having had under consideration Bill No.

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 16-1-411, MCA, TO STANDARDIZE THE TIMING OF IMPOSITION OF THE TABLE WINE TAX ON WINE DISTRIBUTORS; TO IMPOSE A PENALTY AND INTEREST CHARGE FOR FAILURE OF A TABLE WINE DISTRIBUTOR TO FILE A RETURN OR TO PAY TAX ON IMPORTED TABLE WINE; TO PROVIDE A TRANSITION PERIOD; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 279

BE CONCURRED IN
DO-PASS

STANDING COMMITTEE REPORT

March 28, 1931

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 231

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS AND LICENSEES; ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSES OTHER THAN THOSE FOR ON-PREMISES CONSUMPTION; AMENDING SECTIONS 16-4-103, 16-4-104, AND 16-4-401, MCA."

Respectfully report as follows: That SENATE Bill No. 231

BE CONCURRED IN

XXXXX
DO PASS