

STATE ADMINISTRATION
APRIL 20, 1981
RM 436

The meeting of the House State Administration Committee was called to order at 12:30 p.m. on Monday, April, 20, with Chairman Jerry Feda presiding. Representatives Azzara, Kennerly, Kropp and Spilker were not present.

Chairman Feda opened the meeting to a hearing on SJR 35.

SENATE JOINT RESOLUTION 35- SPONSOR, Senator Boylan introduced this bill to the committee. This resolution directs the promulgation of a rule by the Department of Revenue providing for the use of the most recent census date or population estimate date established by the census bureau, U.S. Department of Commerce, in determining all-beverage liquor license quotas. Senator Boylan said that this resolution came about as the result of a problem in Bozeman but it could happen anywhere. The problem arose because there were boundary changes after the census was taken but the all-beverage licenses were issued based on the population after the boundary changes. There were three (3) more taverns included within the city limits after the boundary change and therefore the city was not allowed the additional two (2) licenses.

PROPONENTS

DAVID R. BECK, Bozeman, stated to the committee facts concerning the problem that his business has been faced with because of the way the census was handled. He said that they checked with the federal, city and state agencies thoroughly before beginning their project. With the information that was available to them they could see no problems. He said that first they made contact with the Dept. of Revenue in the summer of 1979 and found out the procedure was for the Department to issue any new licenses that would become available through the 1980 census. We were told, he stated, that once the Federal Census Bureau established the 1980 census the Department would issue any new licenses based on those figures. We then checked with the city of Bozeman to find out where the city limits were. We were told that the city limits were 600 feet to the east of the Fish & Game building. At this point and with the information available to us, he stated, we determined that there would be no conflict with any other all-beverage liquor licenses within a five (5) mile radius of the city limits. On January 1, 1980 the Federal Census Bureau established the city limits of Bozeman and at that point the Federal Census Bureau also established the city limits of Bozeman to be 600 feet east of the Fish & Game Department building. We then obtained financing through a local bank and on June 1, 1980

SJR 35 (cont.)

we began our project. On September 1, 1980 we opened our doors for business. On December 31, 1980, President Carter signed the official United States Census and on January 3, 1981 we came to Helena to give the Department of Revenue our application for an all-beverage liquor license. They would not accept the application because they needed the published official final document from the Federal Census Bureau which would not be available until approximately April of 1981. Because time was of the essence, he stated, we contacted our local representatives and through the help of several people we asked if House Bill 21 would resolve the problem and allow the Department to accept the preliminary figures rather than wait for the final figures. Approximately one month ago, Mr. Beck stated, the problems began. It was found that on April 1, 1980 an annexation took place in Bozeman which changed the city limits by extending the boundaries to 1/2 mile west of the prior city limits that the Census Bureau had already established as the limits on January 1, 1980. Because of this annexation this brought three (3) additional all-beverage liquor licenses within the five (5) mile radius. This in turn nullifies the two (2) all-beverage licenses available through the Department of Revenue. Federal statute supports our position, he said, and if events were taken in the order in which they occurred the Department of Revenue could in clear conscience issue the two licenses that they were going to issue prior to March 19, 1981. Mr. Beck said that if Bozeman is denied these two additional licenses they personally will suffer a great economic loss as well as the other tenants in the Main Mall (which is where the business is located).

PHIL STROPE, Montana Tavern Assoc. stated that they are in support of this resolution.

MIKE GARRITY, Legal Division, Department of Revenue, stated that the department is neither in support or opposition to the resolution but he wanted to make clear that this resolution only applies to all-beverage licenses and the quota system in Montana applies to beer and wine and floater licenses as well. He suggested that the committee consider amending the bill as a matter of consistency.

OPPONENTS

There were none present.

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Senator Boylan closed the hearing on SJR 35. He said that the amendment Mr. Garrity mentioned would probably be taken care of in HB 461 but if not he would have no objection to an amendment if the committee thought it would make a better bill.

EXECUTIVE SESSION

Representative Fedra asked Mr. Strobe to comment on the proposed amendment. He said that he could appreciate Mr. Garrity's concern but he does not think the beer or wine licenses are as important. At this late date, he stated, I would suggest that the committee pass the bill the way it is and leave it up to the department to adopt the rule to apply to beer and floater licenses since they have rule making authority.

Representative Fedra said that he agreed with Mr. Strobe. An amendment at this time would mean the resolution would have to go back to the Senate.

Representative Dussault said that it is up to the committee to decide whether or not this bill should include beer and wine and floater licenses and it should not be left up to the Department to make the changes after the bill is passed.

Representative Kanduch moved that SJR 35 BE CONCURRED IN. Question was called and a vote taken. The motion carried with 14 YES, 1 NO and 4 absent. Representative Mueller voted no.

A motion was made to adjourn at 1:00 p.m.

Respectfully submitted,



G. C. "JERRY" FEDRA, Chairman

Cathy Martin-Secretary

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

BILL SJR 35

Date 4/20

SPONSOR BOYLAN

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
PAUL STROPE	HELENA	MONTAVERNA ASS	X	
Bob Durkin	Helena	MTA	X	
Saul F. ...	Senate	List 38	X	
...	...			
David L. ...	Boz. Mt.			

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.