

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 10, 1981

An executive meeting was called to order by Chairman Hazelbaker at 10:00 a.m. in room 404 of the Capitol Building on Tuesday, March 10. All members were present.

HOUSE BILL No. 130:

Greg Petesch, attorney for the committee, explained the proposed amendments.

SENATOR GOODOVER: I talked to a number of people about the Minnesota law and they have indicated they don't like the bill. There was some discussion following.

SENATOR GOODOVER moved do not pass.

SENATOR BOYLAN moved a substitute motion to table the bill. The motion carried with the vote 5 to 1. Senator Regan voted no.

HOUSE BILL No. 132:

SENATOR LEE moved the amendments as proposed. There was discussion about the codes between Senators Goodover and Lee. Senator Lee said that this bill does not have anything to do with the codes. He said there is no way they can inspect every building in the state.

SENATOR GOODOVER offered a substitute motion to table the bill. The motion failed on a vote of 6 to 2. Senators Goodover and Regan voting no.

SENATOR LEE discussed the bill and its effect. The committee then discussed the amendments at some length. Then followed discussion about grain elevators and whether this bill meant grain elevators or other types of elevators. This needs to be clarified. Then followed more discussion about what an inspection includes.

SENATOR GOODOVER asked how this affects the fiscal note, and Mr. Petesch said he did not know.

MR. KEMBLE: The original added the exemption so now there will be some effect. It should be less.

SENATOR LEE: Is the state saving money or losing money. Mr. Kemble said that all the bill is saying is that we would collect the fee but we would have less manpower.

SENATOR BOYLAN moved the amendments. The vote was 7 to 1 with Senator Goodover voting no.

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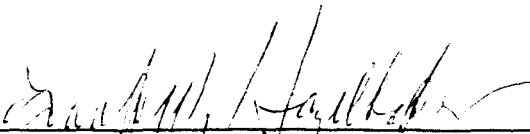
There was general discussion about the effect of the amendments on the bill.

SENATOR LEE moved do pass as amended. The motion carried with Senators Regan and Blaylock voting no.

After considerable discussion it was decided to reconsider and hold the bill until the full committee could be present to vote.

SENATOR GOODOVER moved to hold until the full committee could be there. The motion carried with the vote unanimous.

The meeting adjourned at 11:35 a.m.



Frank W. Hazelbaker, Chairman

Mary Ellen Connelly, Secretary

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/1/70 House Bill No. 130 Time

NAME	YES	NO
Hazelbaker		
Goodover		
Dover		
Kolstad		
Lee		
Blaylock		
Boylan		
Regan		

Secretary

Chairman

Motion:

to table the matter indefinitely

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2/10/81 House Bill No. 132 Time 10:25

NAME	YES	NO
Hazelbaker		
Goodover		
Dover		
Kolstad		
Lee		
Blaylock		
Boylan		
Regan		

Secretary

Chairman

§ 325.53

MANUFACTURES AND SALES

pon of various kinds upon the insertion of a quarter, which coupons were redeemable by the holder for cash in amounts from 50 cents to \$20 or for discounts on the purchase of certain designated merchandise or services, but

which was advertised to the dealer to be at the cost of \$150 per 10,000 coupons was a gambling device within the terms of this section and § 609.75. Op.Atty. Gen., 733d, April 6, 1967.

325.54 Gambling device; possession of

Subdivision 1. Intentional possession; willful keeping. The intentional possession or willful keeping of a gambling device upon any licensed premises is cause for the revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found, provided that possession of gambling devices commonly known as "paddlewheels" or "tipboards" or apparatus used in conducting raffles on the premises of a non-profit organization and operated by organizations licensed for such operation pursuant to section 349.28 shall not be cause for revocation of a license.

[See main volume for text of subd. 2]

Amended by Laws 1978, c. 507, § 1.

1978 Amendment. Added the proviso at the end of subd. 1 relating to paddlewheels, tipboards or other apparatus. Laws 1978, c. 507, became law without the governor's signature upon March 13, 1978.

1. Construction and application

Device sold operated under the trade name "Bonanza" which dispensed coupon of various kinds upon the insertion

of a quarter, which coupons were redeemable by the holder for cash in amounts from 50 cents to \$20 or for discounts on the purchase of certain designated merchandise or services, but which was advertised to the dealer to be at the cost of \$150 per 10,000 coupons was a gambling device within the terms of §§ 325.53 and 609.75. Op.Atty.Gen., 733d, April 6, 1967.

325.57 Proceedings before issuing authority; order to show cause

Laws 1978, c. 674, § 60, directed that "certified mail" be substituted for "registered mail" wherever the term appears

in the statutes, except when the purpose is to insure articles of monetary value.

AGRICULTURAL IMPLEMENT DEALERSHIPS

325.635 Repurchase of farm machinery, implements, attachments and parts upon termination of contract

Subdivision 1. Obligation to repurchase. Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements and repair parts for farm implements enters into a written contract, sales agreement or security agreement whereby the retailer agrees with any wholesaler, manufacturer, or distributor of farm implements, machinery, attachments or repair parts to maintain a stock of parts or complete or whole machines, or attachments, and thereafter the written contract, sales agreement or security agreement is terminated, cancelled or discontinued, then the wholesaler, manufacturer, or distributor shall pay to the retailer or credit to the retailer's account, if the retailer has outstanding any sums owing the wholesaler, manufacturer, or distributor, unless the retailer should desire and has a contractual right to keep such merchandise, a sum equal to 100 percent of the net cost of all current unused complete farm implements, machinery and attachments in new condition which have been purchased by the retailer from the wholesaler, manufacturer or distributor within the 24 months immediately preceding notification by either party of intent to cancel or discontinue the contract, including transportation charges which have been paid by the retailer, or invoiced to retailer's account by the wholesaler, manufacturer or distributor and 80 percent of the current net prices on repair parts, including superseded parts listed in current price lists or catalogs in use by the wholesaler, manufacturer or distributor on the date of cancellation or discontinuance of the contract, which parts had previously been purchased by the retailer from the wholesaler, manufacturer, or distributor and are held by the retailer on the date of the cancellation or discontinuance of the contract or thereafter received by the retailer from the wholesaler, manufacturer or distributor. The wholesaler, manufacturer,

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or distributor shall also pay the retailer or credit to his account a sum equal to five percent of the current net price of all parts returned for the handling, packing, and loading of the parts back to the wholesaler, manufacturer, or distributor unless the wholesaler, manufacturer or distributor elects to perform inventorying, packing and loading of the parts itself. Upon the payment or allowance of credit to the retailer's account of the sum required by this subdivision, the title to the farm implements, farm machinery, attachments or repair parts shall pass to the manufacturer, wholesaler or distributor making the payment or allowing the credit and the manufacturer, wholesaler or distributor shall be entitled to the possession of the farm implements, machinery, attachments or repair parts. However, this section shall not in any way affect any security interest which the wholesaler, manufacturer or distributor may have in the inventory of the retailer.

Subd. 2. Provisions of contract supplemented. The provisions of this section shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of farm implements, machinery, attachments and repair parts. The retailer can elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those farm implements, machinery, attachments and repair parts not affected by the contract remedy. Notwithstanding anything contained herein, the rights of a manufacturer, wholesaler or distributor to charge back to the retailer's account amounts previously paid or credited as a discount incident to the retailer's purchase of goods shall not be affected. Further, any repurchase hereunder shall not be subject to the provisions of the bulk sales law.

Subd. 3. Death of dealer; repurchase from heirs. In the event of the death of the retail dealer or majority stockholder in a corporation operating a retail dealership in the business of selling and retailing farm implements, machinery, attachments or repair parts therefor, the manufacturer, wholesaler or distributor shall, unless the heir or heirs of the deceased agree to continue to operate the dealership, repurchase the merchandise from the heir or heirs upon the same terms and conditions as are otherwise provided in this section. In the event the heir or heirs do not agree to continue to operate the retail dealership, it shall be deemed a cancellation or discontinuance of the contract by the retailer under the provisions of subdivision 1.

Subd. 4. Failure to pay sums specified on cancellation of contracts; liability. In the event that any manufacturer, wholesaler, or distributor of farm implements, machinery, attachments and repair parts, upon the cancellation of a contract by either a retailer or such manufacturer, wholesaler or distributor, fails or refuses to make payment to the dealer or his heir or heirs as required by this section, the manufacturer, wholesaler or distributor shall be liable in a civil action to be brought by the retailer or his heir or heirs for (a) 100 percent of the net cost of the farm implements, machinery and attachments, (b) transportation charges which have been paid by the retailer, (c) 80 percent of the current net price of repair parts, and (d) five percent for handling, packing and loading, if applicable.

Subd. 5. Exceptions. This section shall not require the repurchase from a retailer of a repair part where the retailer previously has failed to return the repair part to the wholesaler, manufacturer or distributor after being offered a reasonable opportunity to return the repair part at a price not less than 80 percent of the net price of the repair part as listed in the then current price list or catalog. This section shall not require the repurchase from a retailer of repair parts which have a limited storage life or are otherwise subject to deterioration, such as rubber items, gaskets and batteries; repair parts in broken or damaged packages; single repair parts priced as a set of two or more items; and repair parts which because of their condition are not resalable as new parts without new packaging or reconditioning.

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Subd. 6. Definition. For the purposes of this section "farm implements" mean every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally operated or used upon the highways.

Laws 1974, c. 158, § 1, eff. July 1, 1974.

Library references

Sales § 111.

C.J.S. Sales §§ 116 to 117, 666.

CUSTOMER DEPOSITS WITH UTILITIES [NEW]

325.637 Regulations

Any customer deposit required before commencement of service by a privately or publicly owned water, gas, telephone, cable television, electric light, heat, or power company shall be subject to the following:

(a) Upon termination of service with all bills paid, the deposit shall be returned to the customer within 45 days, less any deductions made in accordance with paragraph (c).

(b) Interest shall be paid on deposits in excess of \$20 at the rate of six percent per year. The company may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

(c) At the time the deposit is made the company shall furnish the customer with a written receipt specifying the conditions, if any, the deposit will be diminished upon return.

(d) Advance payments or pre-payments shall not be construed as being a deposit.

Laws 1974, c. 424, § 1.

Title of Act:

An Act relating to utilities; private and publicly owned companies; providing for regulations as to customer deposits. Laws 1974, c. 424.

Library references

Public Service Commissions § 7.1.

C.J.S. Public Utilities §§ 13 et seq., 41.

THE MINNESOTA UNFAIR CIGARETTE SALES ACT

Minnesota Statutes 1965, §§ 325.64 to 325.76, containing the Minnesota Unfair Cigarette Sales Act, was repealed by Laws 1967, c. 600, § 15. Laws 1967, c. 600, §§ 1 to 14 enacted a new act upon the same subject matter which has been coded into the same area of the statutes as the former act.

325.64 Minnesota unfair cigarette sales act; findings and policy

The legislature finds that unfair, dishonest and fraudulent business practices exist in transactions involving the sale of, or offer to sell, cigarettes in the wholesale and retail trades in this state and are demoralizing and disorganizing the said trades.

Offering for sale, or sale of cigarettes below cost in the wholesale and retail trade is declared by the legislature to have the intent or effect of injuring a competitor, destroying or lessening competition and is deemed an unfair and deceptive business practice and an unfair method of competition.

Such practices affect collection of taxes and license fees imposed on distributors, wholesalers, retailers, and persons engaged in the sale of cigarettes.

It is hereby declared to be the policy of the state of Minnesota and the purposes of sections 325.64 to 325.76 to protect the public by prohibiting such sales.

Laws 1967, c. 600, § 1.

Former section: See italicized note preceding this section.

Title of Act:

An Act relating to cigarettes, and the prevention of unfair competition and trade practices in connection therewith; and providing license fees therefor; repealing Minnesota Statutes 1965, sections 325.64 to 325.76. Laws 1967, c. 600.

Law Review Commentaries

Price discrimination and sales below-cost statutes. Leon R. Goodrich. 1979, 5 Wm. Mitchell L. Rev. 1.

Library references

Trade regulation § 891.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 240.