

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 12, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Harold Nelson on March 12, 1981, in Room 404 of the State Capitol at 1:00 p.m.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF HJR 25:

Chairman Nelson introduced Representative Harper, sponsor of HJR 25, to the Committee, and Representative Harper explained the resolution to the Committee. HJR 25 is a resolution requesting that an interim committee be assigned to study the child labor laws of Montana.

Representative Harper distributed a paper describing the Child Labor Law in Montana. See Attachment #1.

Representative Harper also offered an amendment to HJR 25. See Attachment #2.

PROPOSERS OF HJR 25:

DON JUDGE, representing Montana State AFL-CIO, stated they are in support of HJR 25. See Attachment #3 for Mr. Judge's printed testimony.

DAVID HUNTER, representing the Department of Labor, stated they are in support of HJR 25.

MAYNARD OLSON, representing the Office of Public Instruction, stated they support HJR 25.

WILLIAM BALL, representing the State Advisory Council for Vocational Education, stated they are in support of HJR 25 and the amendment as well. He further stated that the schools might possibly be violating the law on the books. He told the Committee the study would be very helpful.

JIM FITZPATRICK, representing School District No. 1 in Helena, stated they support HJR 25. They would like to propose that school district people be on the Committee because most schools provide training which affect child labor laws, and the laws affect both employees and employers so there must be careful study.

OPPONENTS OF HJR 25: None were present at the hearing.

QUESTIONS FROM THE COMMITTEE ON HJR 25:

SENATOR AKLESTAD: What was the particular law in question that needs changing?

MR. KANE: A child was riding on top of a boxcar during a filming. Another instance was that children were employed by a motion picture company and they were working long hours in a building that was full of smoke. The protection of the children wasn't adequate. Legislation is needed to legally employ, and to provide for their protection while they are working.

SENATOR AKLESTAD: Would you make the state law more stringent?

MR. KANE: They would be more lenient, but would provide more protection.

SENATOR AKLESTAD: How does this resolution pertain to schools?

MR. KANE: In the schools' cooperative education and distributive education programs students are required to take training that may be dangerous. For example, they may be working near machinery. Some employers are subject to federal child labor laws and some are subject to state child labor laws. The employer is subject to stricter laws on the state level.

SENATOR HAFFERMAN: A weekly newspaper had trouble--would child labor laws apply?

MR. KANE: This was a problem of the U.S. Department of Labor. State law would probably not allow a child to work around printing presses.

SENATOR HAFFERMAN: I thought they were addressing envelopes with their backs to a printing press.

MR. KANE: The hours they worked is possibly the violation. Perhaps they were putting in hours at work when they should have been in school.

SENATOR KEATING: What is your definition of work environment?

REPRESENTATIVE HARPER: Where children work.

SENATOR KEATING: Would the term "environment" limit application of the resolution?

REPRESENTATIVE HARPER: The resolution is not intended to be restrictive. That is why we offered the amendment.

Chairman Nelson called the hearing closed on HJR 25.

CONSIDERATION OF HOUSE BILL 430:

Chairman Nelson introduced Representative Underdal, sponsor of House Bill 430, to the Committee. Representative Underdal explained the bill to the Committee. This bill is an Act to repeal the Restaurant, Bar and Tavern Wage Protection Act, Sections 39-3-601 through 39-3-608, MCA.

See Attachment #4 for Representative Underdal's printed testimony.

PROPOSERS OF HOUSE BILL 430:

ROGER ANDERSON of Great Falls, representing Robbie's Restaurant, Inc., in Great Falls, Montana, and the Montana Restaurant Assoc., stated that they support HB 430. There are approximately 3,000 restaurants in the state, and 1,000 are obligated to post bond. However, only 132 actually post bonds in the state. The cost of the bond for his restaurant is \$122 per year and is hard to get.

Mr. Anderson stated that he was one of those who posted bond. He believes the Act is discriminatory and inflationary.

JERRY BAKER of Billings, representing Jerry's Village Inn in Billings, stated they support HB 430. See Attachment #5 for Mr. Baker's written testimony.

JOHN HOOPER of Billings, representing the Montana Tavern Assoc., stated they are in support of HB 430.

OPPOSERS OF HOUSE BILL 430:

SEYMOUR FLANAGAN, representing the Hotel & Restaurant Employees and Bartenders Local 533, stated they oppose HB 430 for the following reasons:

- 1) When the law was proposed, it was proposed by owners of the buildings as well as employees. At that time, this union did not support the bill.
- 2) Other contractors (for example, builders) have to post bonds.
- 3) Legitimate operators can post the bonds.
- 4) Though the law hasn't worked perfectly, it has at least deterred some fly-by-night operations who would set back employees. These employees may be deprived of wages with no protection to force payment of wages. It only takes a few union abuses to hurt the union members.

JO JENSEN of Great Falls, representing Local 101 HMRE&B, stated they oppose HB 430. See Attachment #6 for Mrs. Jensen's printed testimony.

ALICE SHEPKA of Anaconda, Montana, representing the HMRE&B, stated they oppose HB 430. See Attachment #7 for Mrs. Shepka's printed testimony.

DON JUDGE, representing Montana AFL-CIO, stated they oppose HB 430. See Attachment #8 for Mr. Judge's printed testimony.

JERRY DRISCOLL of Billings, representing Laborers' Union Local 98, stated that contractors must post a bond, too.

DAVE HUNTER, representing the Department of Labor, stated they oppose HB 430.

- 1) Re: Administration of the Act. It is true, a low number of people who have been required to post the bond have done so. The reason for this is that there are few FTE's in the Labor Standards Bureau.

Mr. Hunter stated that if a bond is not posted, they could bring an injunction against the business and close them down. However, they would try to do a lot of things before they close the business down.

- 2) Discriminatory? All public works contracts require a bond, especially if the state of Montana is gathering bids from contractors. There are three other areas of the law that require a bond.
- 3) Why are lessees only subject to the Act? There is property to attach if the Department goes after a non-propertyed establishment for wages owed.
- 4) Bonds are also used to pay unemployment insurance premiums. In the absence of a bond, there would be no premium.
- 5) Why single out restaurants and taverns? They have a high rate of going out of business and constitute a high proportion of wage claims.
- 6) There is a possibility that a surety bond will be obtained by establishments with large assets. Those with no assets do not obtain the surety. The surety would not work where they have the most wage claims--restaurants with few assets.
- 7) There are eight FTE employees in the Department and only one-half FTE is used now to enforce the Wage Protection Act.
- 8) If the Wage Protection Act is repealed, enforcement would be more costly. The Department would still attempt to enforce a wage claim, but would have no bond to attach and would have to spend time and money seeking property of the defendant.

The Wage Protection Act protects employees and applies to those who need protection and to the group which files the most wage claims. In sum, it is easier to enforce and protects honest people in business, it protects business unemployment insurance rates, and the price of the bond is a small price to pay in order to assure protection for employees.

REPRESENTATIVE UNDERDAL made closing remarks in support of HB 430. See Attachment #4.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL 430:

SENATOR KEATING: Asked Mrs. Jensen if the employees she spoke of in her testimony were employed by a restaurant that was obligated to file a bond?

MRS. JENSEN: Yes, they were.

SENATOR KEATING: What is the total amount in the state of the potentially lost wages under the Wage Protection Act?

MR. KANE: I don't have that information, but I will get it for you.

SENATOR GOODOVER: Mr. Hunter, was the same testimony presented in the House that you presented here?

MR. HUNTER: Yes, but it didn't influence the Committee.

SENATOR KEATING: When we have a thousand businesses that are supposed to be bonded, why do we have only 132 which are actually bonded?

MR. HUNTER: We haven't had the staff to actively seek bonds from those who have chosen not to comply with the law. The Department has been busy responding to complaints for wage claims.

SENATOR KEATING: How much would it cost the government to properly enforce the Act?

MR. HUNTER: It would take one person full time until you get compliance.

SENATOR ANDERSON: There is a high rate of failure in some of these restaurants and taverns. Can they still be bonded?

MR. HOOPER: I don't think they can be bonded.

SENATOR ANDERSON: Would you rather have the marginal employers or no jobs at all?

MR. HUNTER: We are looking for protection for workers in jobs that are known to have a big failure rate. We don't think good employers should be penalized.

SENATOR GOODOVER: Do prospective employees go to work for employers that do not have a bond?

MR. JUDGE: Most don't even know that the bond is required.

There was brief discussion about the bonding issue.

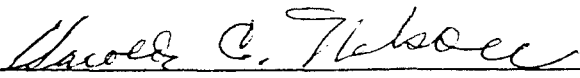
Chairman Nelson called the hearing closed on House Bill 430.

Attachment #9 was submitted at the close of the meeting by Mr. Kane. This attachment is a list of the losses and recoveries under the Restaurant, Bar and Tavern Wage Protection Act.

Attachment #10 was submitted at the close of the meeting by Representative Underdal. This attachment is a letter from the Department of Labor & Industry with some statistical information pertaining to HB 430.

No action was taken on HJR 25 or HB 430 at this meeting.

ADJOURN: There being no further business, the meeting adjourned at 2:30 p.m.



Senator Harold C. Nelson, Chairman

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ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date March 12

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN	✓		
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

Attachment # 1
Presented by Rep. Joe Harper

CHILD LABOR

Part 1 — Prohibited Employment of Children

- Section
41-2-101. Employment of children prohibited — when.
Sections 41-2-102 through 41-2-110 reserved.
41-2-111. Liability of parent.
41-2-112. Record of children under the age of sixteen years.
41-2-113. Age certificates.
41-2-114. Enforcement.
Sections 41-2-115 through 41-2-120 reserved.
41-2-121. Penalties.

Part 1

Prohibited Employment of Children

41-2-101. Employment of children prohibited — when. Any person, company, firm, association, or corporation engaged in business in this state or any agent, officer, foreman, or other employee having control or management of employees or having the power to hire or discharge employees who shall knowingly employ or permit to be employed any child under the age of 16 years to render or perform any service or labor, whether under contract of employment or otherwise, in, on, or about any mine; mill; smelter; workshop; factory; steam, electric, hydraulic, or compressed-air railroad; or passenger or freight elevator or where any machinery is operated or for any telegraph, telephone, or messenger company or in any occupation not herein enumerated which is known to be dangerous or unhealthful or which may be in any way detrimental to the morals of said child shall be guilty of a misdemeanor and punishable as hereinafter provided.

History: En. Sec. 1, Ch. 99, L. 1907; Sec. 1746, Rev. C. 1907; re-en. Sec. 3095, R.C.M. 1921; re-en. Sec. 3095, R.C.M. 1935; R.C.M. 1947, 10-201.

41-2-102 through 41-2-110 reserved.

41-2-111. Liability of parent. Any parent, guardian, or other person having the care, custody, or control of any child under the age of 16 years who shall permit, suffer, or allow any such child to work or perform service for any person, company, firm, association, or corporation doing business in this state or who shall permit or allow any such child over whom he has such care, custody, or control to retain such employment as is prohibited in

41-2-101. whether under contract of employment or not, shall be guilty of a misdemeanor and punishable as hereinafter provided.

History: En. Sec. 2, Ch. 99, L. 1907; Sec. 1747, Rev. C. 1907; re-en. Sec. 3096, R.C.M. 1921; re-en. Sec. 3096, R.C.M. 1935; R.C.M. 1947, 10-202.

41-2-112. Record of children under the age of sixteen years. The commissioner of labor and industry shall compile and preserve in his office from reports made to him by the county superintendents of schools, as otherwise provided, a full and complete list of the name, age, date of birth, and sex of each child and the names of the parents or guardians of each child under the age of 16 years who is now or may hereafter become a resident of this state, and such list shall be the official record of the age of children in this state.

History: En. Sec. 3, Ch. 99, L. 1907; Sec. 1748, Rev. C. 1907; re-en. Sec. 3097, R.C.M. 1921; re-en. Sec. 3097, R.C.M. 1935; R.C.M. 1947, 10-203.

41-2-113. Age certificates. Upon obtaining the age of 16 years any child may make application to the commissioner of labor and industry for an age certificate, which must be presented to any employer with whom the child seeks employment. The employer, if such employment be given, must countersign the certificate and return it to the commissioner, who shall keep it on file in his office. Any person, firm, company, association, or corporation who employs or permits to be employed in any occupation prohibited by 41-2-101 any child without such certificate showing the child to be at least 16 years of age is guilty of a misdemeanor and punishable as hereinafter provided should such child prove to be less than 16 years of age.

History: En. Sec. 4, Ch. 99, L. 1907; Sec. 1749, Rev. C. 1907; re-en. Sec. 3098, R.C.M. 1921; re-en. Sec. 3098, R.C.M. 1935; amd. Sec. 1, Ch. 100, L. 1977; R.C.M. 1947, 10-204.

41-2-114. Enforcement. To enforce this part the commissioner of labor and industry and each county attorney shall, each upon his own volition or upon the sworn complaint of any reputable citizen that this part is being violated, make prosecutions for such violations.

History: En. Sec. 5, Ch. 99, L. 1907; Sec. 1750, Rev. C. 1907; re-en. Sec. 3099, R.C.M. 1921; re-en. Sec. 3099, R.C.M. 1935; amd. Sec. 2, Ch. 100, L. 1977; R.C.M. 1947, 10-205.

41-2-115 through 41-2-120 reserved.

41-2-121. Penalties. Every person, firm, company, association, or corporation who violates any of the provisions of this part shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25 or more than \$500 or by imprisonment in the county jail for a period of not less than 30 days or more than 6 months or by both such fine and imprisonment.

History: En. Sec. 6, Ch. 99, L. 1907; Sec. 1751, Rev. C. 1907; re-en. Sec. 3100, R.C.M. 1921; re-en. Sec. 3100, R.C.M. 1935; R.C.M. 1947, 10-206.

Attachment #2 /
Presented by Rep. Harper

Amendments of House Joint Resolution No. 25

1. Page 2.

Following: line 16

Insert: "BE IT FURTHER RESOLVED, that in the course of this interim study that the issues be studied of protection of employers and school districts from liability for events arising in the course of employment of young persons subject to child labor laws."

NAME: Don Judge DATE: 3/12/81

ADDRESS: P.O. Box 1176 Helena

PHONE: 442-1708

REPRESENTING WHOM? MT STATE AFL-CIO

APPEARING ON WHICH PROPOSAL: HJR 25 & HB 430

DO YOU: SUPPORT? HJR 25 AMEND? OPPOSE? HB 430

COMMENTS: Prepared Testimony Submitted

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Attachment #3
(Don Judge)

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601
406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave.

TESTIMONY OF DONALD R. JUDGE ON HOUSE JOINT RESOLUTION 25, BEFORE THE
SENATE LABOR COMMITTEE, MARCH 12, 1981

I am here today for the Montana State AFL-CIO to speak in strong support of HJR 25, to establish an interim committee to study Montana's Child Labor Laws.

Child Labor Laws are essential to protect the health, safety and well-being of Montana's children and young people. However, our current laws do not properly address the issue, because they were written seventy-four years ago, in 1907.

No matter how far-sighted, no lawmakers of that era could begin to conceive the tremendous changes and advances in our industrial society. Technology has changed that society in innumerable ways.

Antiquated, out of date laws are not applicable today, and they are difficult, if not impossible to enforce. The limitations of those laws may lead to abuse. On the other hand, there may well be provisions which unnecessarily limit the employment of young people, because of technological advances unheard of in 1907. What was relevant and important in terms of child labor, at that time, needs to be carefully reexamined and reconsidered in the light of present day working conditions and the provisions of the federal laws regarding child labor.

We ask your support in bringing Montana's Child Labor Laws up to date in a deliberate and reasonable way.

NAME :

DATE: 3/12/81

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

support

AB 430

oppose

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Magnard A. Olson

DATE: 3-12-81

ADDRESS: 206 So. Dakota, Helena

PHONE: 442-9244

REPRESENTING WHOM? C. P. I

APPEARING ON WHICH PROPOSAL: H. J. R. 25

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE:

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jim Fitzpatrick

DATE: 3-12-81

ADDRESS: 941 Hollins

PHONE: 443 - 3959

REPRESENTING WHOM? School Dist No 1 - Helena

APPEARING ON WHICH PROPOSAL: HJR-25

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: L. J. Hall DATE: 1/12/71

ADDRESS: 75 S. Main

PHONE: 449-5600

REPRESENTING WHOM? Labor Standards Bureau

APPEARING ON WHICH PROPOSAL: ~~49R 25~~ 49R 25 HR 430

DO YOU: SUPPORT? ~~yes~~ AMEND? _____ OPPOSE? _____

COMMENTS: Support 49R 25
Oppose HR 430

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY FROM REPRESENTATIVE UNDERDAL

H.B. 430 repeals the Restaurant Bar and Wage Protection Act Sections 39-3-601 ---- 39-3-608. This statute dates from 1965 and its purpose was to protect the wages of workers in restaurants and bars.

Why Should it be Repealed?

First, it is very discriminatory. Only those in rented facilities are required to bond.

Second, restaurants and bars in shopping centers can not buy their business locations so are obliged to bond regardless of financial responsibility.

Third, bond is not readily available and if obtainable total insurance package is required in order to include bond.

Fourth, there is protection now in federal and state wage protection acts.

Fifth, the law is not enforced. In the past several years that I have followed it, the enforcement has been from 10% to 15%. There are 3078 bars and restaurants and of these 985 require bonding. 132 are bonded or approximately 13% and of these some are chain outlets that are probably financially sound. Those that should be under this act are escaping bonding because of lax enforcement. The Restaurant Association and Montana Tavern Association are opposed to the act and regard it as punitive and discriminatory.

There is no fiscal note but there should be a substantial saving even with the few who are bonded and if there were an effort at enforcement, the cost would rise dramatically. There is also the possibility of discrimination suits.

I believe that such a law with its poor track record should be repealed. I would ask your careful consideration for a DO PASS.

CLOSING BY REPRESENTATIVE UNDERDAL:

11 businesses failed in past biennium.
3 were bonded and paid. Why not the other 8? Is it the cost of enforcement or perhaps the reluctance of the department to use the statutes of the protection act. No doubt there are those who lose wages as happens in other types of business. However, this should and could be addressed in a statute that would cover all employees.

Many of the establishments that close are not bonded nor are they required to be, because if they own their building, regardless of financial condition, they are exempt. Bar licenses have a high monetary value so it would seem ridiculous for them to have a bond.

I certainly sympathize with anyone who is defrauded of wages. However, this statute is so unfair and discriminatory in that only a select group are required to post a bond. How much will it cost to enforce the act? Why has not the surety bond been perfected in the past six years? \$9,000.00 recovered but 8 others not recovered because of neglect by the department.

NAME: ROGER L. ANDERSON DATE: 3-12-81

ADDRESS: 2210 AUDER Drive Cot. AUS, Mont 5944

PHONE: 406-761-7160 or 452-3564

REPRESENTING WHOM? ROBBIE'S RESTAURANT, INC. / MONTANA
RESTAURANT
ASSOCIATION

APPEARING ON WHICH PROPOSAL: H.B. 430

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: GERALD G JERRY BAKER DATE: 3-12-81

ADDRESS: 2526 Valley View

PHONE: 549-3539

REPRESENTING WHOM? JERRY'S VILLAGE, SUN

APPEARING ON WHICH PROPOSAL: HB 430

DO YOU: SUPPORT? yes - AMEND? _____ OPPOSE? _____

COMMENTS: I will justify.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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Attachment # 5

Mr. Chairman, Members of the Committee. I am J.B. of JERRY'S MS

It is wonderful to be fortunate enough to be born into a country where when a law or Edict has been passed by due process that we as citizens have an opportunity to appear before the tribunals or legislatures as free men and air our indifferences to such laws or rules that are offensive to the integrity and character of a nations people, under the guise of protectionism.

Such is the case with a law that was passed back in 1965 known as the Bar & Restaurant Wage Earners Protection Act. I don't know how familiar you are with this act and I will presume with all of the tedious hours of effort you people must use to keep up on many of the issues confronting you that it is possible you have not had the time to acquaint yourselves with the ramifications of that act. It is in that spirit that I will try to enlighten you on the unfairness and ~~discriminating~~ ^{economic} aspects of the act. Forgive me if my assumptions are incorrect. There are approximately 3100 Bar-~~XXXXXX~~ and Restaurants in Montana. We are entrepreneurs who have ~~draw~~ ^{drawn} like everyone else. Of that 3800 there is approximately 1100 of us who for one reason or another do not or cannot own our own buildings, Where we carry on the trade and commerce of our industry and in most cases employ large numbers of wage earners. The Bar and Restaurant Wage Earners Protection Act calls for and demands from this segment of the industry the purchase th of a bond from an insurance Company that would provide the necessary funds to guarantee the payment of wages to those employees who were unfortunate enough to having been employed by some restaurant or ~~long~~ ^{long} owner who had the misfortune of going broke with no assets left with which to meet his obligations.

On the surface it appears to be an act which would correct all of the ills of our industry or of the needs of the Department of Labor and Industry to enforce such a law. Which brings to mind the inability of the Dept. of Labor & Industry to enforce this law. By their own admission and testimony in the House Committee when HB430 was introduced to repeal the Bar & Restaurant Wage Earners Protection Act. The Dept. and its compliance officers have only been successful in forcing 132 of the more than 1100 business who are required under the law to purchase the bond. There are several good reasons why HB430 should meet the need to repeal the Bar & Restaurant Wage Earners Protection Act.

#1 - The cost of the bond would be in the area of \$150.00 for each employer annually computing that against 1100 operators - we would be expending some \$165,000.00 annually to be dumped into the coffers of some insurance company.

That \$220,000.00 has to come from some place. We are forced - either to absorb that cost ourselves or pass it on to the consumer. In either case it is inflationary. That is but just a portion of the cost to administer and enforce the Bar & Restaurant Wage Earners Protection Act. We must consider those costs as well. Let us look at the budget for the Dept. of Labor & Industry, and assume that at least 5 people in the Dept. are paid by the taxpayers to enforce the law. I would assume we are probably dealing with perhaps a budget of at least \$75,000.00 annually. According to the testimony of Mr. Cain of the Dept. of Labor & Industry they were successful in collecting only \$9513.00 of unpaid wages affected by closures. In addition there were only about \$20,000.00 in unpaid wages as a result of such closures in the whole state of Montana for the biennium. They also admit in their testimony they were unable to collect wages from a closed operation where the operator was not affected by the law in question, because the building and property were owned by the operator. I would say with these two facts the taxpayers are not getting their money worth. Because somebody in the Dept. is not doing his or her job. That case was here in Helena. Moreover, there is on the statutes numerous laws which are applicable and can be used in case of non-payment of wages on complaint of the wage earner by county officials, namely the county attorneys and the constable or sheriff to seize property or assets in the amount of wages owed and thereby relieve the state of such a costly collection service. Secondly No other enterprise or industry is affected by the Bar & Restaurant Wage Earners Protection Act. That in itself makes this act discriminatory under the law. Our industry has been singled out as one whose integrity is questionable. Where the only ambition it is to open for business, hire a contingent of employees, operate for a short time, make all kinds of money, sneak off in the middle of the night with our waffle machine, our milk shake maker, our inventory and leave some unsuspecting employee to hold the proverbial bag. In fact those are the words of the opponents of HB430 in the name of the various unions in testimony a few weeks ago, in the House Labor Committee. I'm sure the adversaries or opponents of HB430 will testify today along these same lines to convince you in this committee that we in our industry are not to be left to operate our business in a fashion that is trustworthy. They will, if they follow the usual form tell you that I have been sued or there is on the record a suit against my firm, (for some \$28,000.00 in Missoula for charges (13 in number) ranging from not paying 12 1/2 cents an hour additional for waitress who push a button on a dishwasher, to stealing \$800.00 in tips.) That same union has employed two separate law

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firms to represent them and all charges have been answered to the satisfaction of those firms and they declared they have no case. I'm sure this may be irrelevant except for the purpose ~~to~~ discredit ~~to~~ my credibility.

It is my hope that this would come to court so that I may disprove every count or charge.

It would appear to me that an industry so important to our society would get more due credit than is offered by these people who would have you believe that we run out on our just debts, abuse our employees and pay them little or no wages etc. etc.

Remember, ladies and gentlemen we are important in our community because we provide jobs, services and pay taxes, support community services and etc. and feel that we deserve something more than ridicule,

My reason for being here today is to ask that you in this committee in your wisdom, see fit to send HB 430 out onto the floor for its due readings, passage thereof and eventually the governor's signature, There by relieving that portion of our citizens to do business on an equal scale with our neighbors. I consider this opportunity to appear here a real privilege.

Thank ~~you~~ **you**

A copy of this testimony will be readily available for your benefit

NAME: Symon J. Flanagan DATE: 3, 12, 81

ADDRESS: 1616 Cannon Apt 22

PHONE: 442-3727

REPRESENTING WHOM? Hotel Dist Employees + Bartenders local 329

APPEARING ON WHICH PROPOSAL: House Bill 430

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: This law is working and will be
a continuation of determent for those
whose wish to beat the law.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Josephine A. Deane DATE: 3/12/81

DATE: 3/12/81

ADDRESS: 1112 7th St S Great Falls, Minn

PHONE: 453-1091

REPRESENTING WHOM? Local 101 H/GR/RE/B

APPEARING ON WHICH PROPOSAL: Wage Protection Act

SUPPORT?

AMEND?

OPPOSE? /

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY OF JO JENSEN, BUSINESS AGENT FOR HOTEL AND MOTEL AND RESTAURANT AND BARTENDERS INTERNATIONAL, LOCAL 101, ON HOUSE BILL 430 BEFORE THE SENATE LABOR COMMITTEE, MARCH 12, 1981

My name is Jo Jensen, and I am with the Hotel, Motel, Restaurant and Tavern Employees Union Local #101. I am against House Bill 430.

This bill does away with the Restaurant, Bar and Tavern Wage Protection Act. The wage protection act is very important to my members and to all the employees of these places. Every so often a restaurant or a bar closes up and the employees are left with wages owed to them. When a bond is posted, it protects the wages of these people. And they don't make much money as it is.

The problem is that a lot of places don't put up the bond money. I don't mean to run down the Department of Labor, because they help us in a lot of different ways. But it appears they don't have the people to enforce this law.

Let me tell you what happens when the law isn't enforced. In Great Falls the O'Haire Manor Coffee Shop closed down. The owner left town and went to Tennessee. There were 10 employees who were left with money owed to them.

One of those ten women was 65 years old. She had \$441.36 coming to her, one month's pay. She is what you call the working poor, and she needs that money bad. When the place went belly up, we filed a wage claim with the Department of Labor. They sent an order to the owner to pay up. But that was back in October. You could bet a million dollars that she won't ever see a dime coming back from Tennessee.

If you passed this law, that sort of criminal activity against poor working people would be legal. What you need to do is quit protecting the dishonest people, and give the Department of Labor whatever it needs to enforce the bonds. That is the only way people in these risky businesses will get the money they have worked for.

I'm not just asking you to vote against this House Bill 430, I'm begging you to -- for the protection of our workers.

NAME :

DATE: 5-12-1981

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY OF ALICE SHEPKA, BUSINESS AGENT FOR HOTEL AND MOTEL AND RESTAURANT AND BARTENDERS INTERNATIONAL UNION, LOCAL 509, ANACONDA, ON HOUSE BILL 430 BEFORE THE SENATE LABOR COMMITTEE, MARCH 12, 1981

I am Alice Shepka with the Hotel, Motel and Restaurant Employees Local 509, Anaconda. I am also vice president of District 1, Butte-Anaconda-Deer Lodge, of our state council.

I drove over here to tell you how upset I am about House Bill 430. It is asinine to be taking away the protection of people who are making menial wages to begin with.

Back before this law went into effect in 1965, we had an establishment that went out of business. Eleven people were stuck without jobs. To make things worse, the place didn't have a bond, because it wasn't in the law then. These eleven people were all owed back wages, some as much as six weeks' worth. They didn't have unemployment insurance. Their state and federal tax hadn't been paid. Some of them had to go on welfare.

After that, we got the law passed that makes these places put up a bond so that the wages are guaranteed.

These people make menial wages. They don't have insurance, no health insurance of any kind. They have to buy their own uniforms, etc. They work bad hours. They get menial benefits. The only thing they have is that paycheck, and it's darn small. They are just about the poorest paid people there are in the state.

Now you want to take away the guarantee for their wages. If they work for low wages anyway, at least they should get paid. These people want to stay off welfare. They need protection for their wages. There should be improvements in the law so the Department of Labor can enforce it. It is ridiculous to keep trying to take away protection from these people every session.



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601
406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave.

TESTIMONY OF DONALD R. JUDGE, MONTANA STATE AFL-CIO, ON HOUSE BILL 430, BEFORE THE
SENATE LABOR COMMITTEE, MARCH 12, 1981.

My name is Don Judge and I'm here today to represent the Montana State AFL-CIO. I am here to oppose House Bill 430, which would take away the wage protections of some of the lowest paid workers in Montana.

Everyone knows that restaurants and bars have a high failure rate. It's part of the nature of the business. And everyone knows that restaurant, bar and tavern employees, in many cases, are very poorly paid, often only receiving minimum wage.

When people are trying to feed, clothe and house families on such low wages, they don't need to face the additional danger of being stranded by an employer who either goes bankrupt or who skips town to avoid his creditors.

The Restaurant, Bar and Tavern Wage Protection Act simply provides that a bond equal to approximately one month's payroll be posted. Then if the business fails, the employees receive the wages due them. Why should honest, hard-working people pay the freight for a few dishonest or unlucky employers?

Currently in Montana there are 3078 restaurants, bars and taverns. Only about 1000 are required to post this bond, since only those leasing the premises are covered. Businesses which own their own building are exempt from the bonding requirements. Of the 1000 covered employers, only 132 have actually posted a bond. Some \$700,000 in wages are covered. In the last biennium, 9,513 dollars in wages have been paid to 67 employees by the bonding companies through the State Department of Labor and Industry. That was the result of the default of three businesses which, fortunately, had posted bonds.

Unfortunately, there were at least 8 other establishments which are required by law to have a bond, but which skipped town or went bankrupt without posting the bond, leaving the employees holding the bag.

(over)

House Bill 430 would be a boon to dishonest and incompetent employers, while causing direct harm to low paid workers and other honest employers. The current Act should not be killed, but its enforcement should be strengthened. The Department of Labor and Industry should be given the personnel and authority to enforce the law so that all covered establishments would have to obey it and post a bond.

It wouldn't make any sense for the legislature to solve the problem of shoplifting by making shoplifting legal, but that is what this bill does. When a shop is lifted out of a town, employees would be stuck, as would merchants in the town who sell to those employees or who have extended credit to those employees.

It doesn't seem right in the American system to penalize honest working people and reward dishonest or incompetent mismanagement. In a free enterprise system, the risk should be on the entrepreneur, not on the hired help.

History has proven the need for such a law in Montana. The current law wasn't predicated on a possibility, but rather on our experience. Now, in a time when inflation is causing more bankruptcies than at any other time since the great depression, is not the time to repeal the Montana Restaurant, Bar and Tavern Wage Protection Act.

We would respectfully urge that you give House Bill 430 a DO NOT PASS recommendation.
Thank you.

Attachment #9
Presented by Dick Kane
Re. HB 430

Losses and Recoveries Under Restaurant, Bar and Tavern
Wage Protection Act

1. Macks Cafe - Forsyth - Bond required - no bond posted - Bankrupt - 12 employees
2. Stagecoach Inn - West Yellowstone - Bond required - no bond posted - Bankrupt
3. Golden Wheel - Stevensville - No bond required - Bankrupt - 8 employees
4. Wrangler Cafe - Great Falls - Bond paid \$3,600.00 to 18 employees.
5. Ramshead - Red Lodge - Bond required - no bond posted - owner disappeared 13 employees
6. Carols Cafe - Bozeman - Bond paid \$1,199.00 to 17 employees
7. Roys Cafe - Conrad - Bond required - no bond posted - Bankrupt
8. Food Bin - Bozeman
9. Glacier Cafe and Shanty Cafe (1 employer) - Havre - Bond required - no bond posted - owner disappeared
Have Judgements totaling \$3,709.00 in wages and penalty.
10. Establishment - Helena - closure by S.B.A. - no bond required - Judgements totaling \$74,842.76 in wages and penalties. Applications for judgements pending total \$22,626.30.
11. Mercantile - Lewistown - no bond required - closure by S.B.A.
12. Husky House Cafe - Glendive - Bond paid \$3,733.98 to 28 employees.
13. Blue Stonehouse - Helena - no bond required - 3 employees
14. O'Haire Manor Coffee Shop - Great Falls - Bond required - no bond posted - 5 employees
15. Teton Valley Inn - Gateway Inn - Bond required - no bond posted - owner disappeared - 6 employees

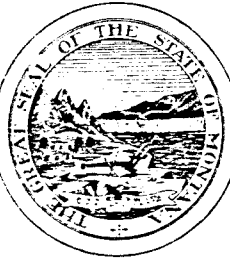
DEPARTMENT OF LABOR AND INDUSTRY

LABOR STANDARDS DIVISION

Presented by Representative Underdal
Re. HB 430

THOMAS L. JUDGE, GOVERNOR

STATE CAPITOL



STATE OF MONTANA

(406) 449-5600

HELENA, MONTANA 59601

February 10, 1981

Information for Representative Underdal

1. January 1, 1981, there were 132 bonds in force guaranteeing over \$700,000 in wages.

Some of these bonds cover multiunit chain outlets such as J B's Big Boy. These would cover all outlets in the state without an individual count on the restaurants.

2. In the present biennium, 3 bonds in force have paid \$9,513.24 in wages to 67 employees.
3. 1482 eating establishments
 - 843 combination bar-restaurants
 - 753 bars
 - 3078 Total

Approximately 32 percent require bonds

Bonds covering multiple outlets

Albertsons
 Kentucky Fried Chicken
 J B's Big Boy
 Sambo's - 6 outlets
 Saga Food
 F.W. Woolworth