

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 23, 1981

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager of Monday, March 23, 1981 at 12:30 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Senators Johnson and Norman arrived late, however. Kathleen Harrington, staff researcher, was also present.

Many visitors were in attendance. (See attachments.)

CONSIDERATION OF HOUSE BILL 577: Representative Dan Harrington of district 88, sponsor of HB 577, gave a brief resume of the bill. This bill is an act to revise certain laws administered by the Montana State Board of Medical examiners; to provide for the board to set the date of annual election of officers; to provide for forfeiture instead of revocation of license when the annual registration fee is not paid and that the licensee shall retain in his office or on his person evidence of payment of payment of the annual registration fee during the period of validity; to provide for insurers underwriting professional liability insurance to report the final disposition of any claim filed for alleged professional negligence to the board.

This bill was introduced at the request of the Board of Professional and Occupational Licensing.

Section 1 provides that the Board shall set the date of annual election of officers rather than having to elect officers at its first meeting each year.

Section 2 provides that the licensee must have evidence of his payment of the annual registration fee in his person or in his office as long as the registration is valid. It also provides for the forfeiture instead of revocation of the license if the registration fee is not paid.

Section 3 provides that an insurer must report the final disposition of any claim for alleged professional negligence to the State Board of Medical Examiners within 30 days of the final disposition. The final report shall include the details of the settlement and the dollar amount if any was awarded.

PUBLIC HEALTH
PAGE TWO
MARCH 23, 1981

Jerome Loendorf, representing the Montana Medical Association, stated his support of the bill.

With no further proponent, the Chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Olson asked Mr. Ed Carney, director of POL department why they would want to know the dollar figure of a settlement. Mr. Carney replied that the figure would indicate the seriousness of the alleged complaint.

With no further questions, Representative Harrington closed.

CONSIDERATION OF HOUSE BILL 671: Representative Burt Hurwitz, of District 45, sponsor of HB 671, gave a brief resume of the bill. This bill is an act to revise fees for various boards allocated to the Department of Professional and Occupational Licensing; to provide for renewal fee increases for licensed osteopathic physicians, podiatrists, hearing aid dispensers, water well contractors, and psychologists; to delete the requirement that a podiatrist's license be filed with the county clerk and recorder; to provide for an examination and late renewal fee for licensed nursing home administrators and applicants; to provide for an increased resoration fee for chiropractors; to provide for an application fee for cosmetology applicants.

Section 1 increases the renewal fees for osteopathic physicians from \$15 to \$25 for those in active practice and from \$7.50 to \$17.50 for those not in active practice.

Section 2 increases the renewal fee for podiatrists and deletes the requirement that a podiatrist's license be filed with the county clerk and recorder.

Section 3 provides that Nursing Home Administrators and applicants pay an examination fee that would be set by the board. They must also pay a late renewal fee for failure to pay the license or registration fee for the failure to complete the continuing education requirements.

Section 4 provides an increase in the fee charged to a chiropractor that has had his license revoked and later restored from \$50 to \$150.

PUBLIC HEALTH
PAGE THREE
MARCH 23, 1981

Section 5 provides for an increase in the license fee for hearing aid dispensers from \$80 to \$100.

Section 6 provides an increase in renewal fees for psychologists from \$20 to \$50 to \$40 to \$100.

Section 7 provides an application fee for cosmetologists which may not exceed \$10.

Section 8 provides that the renewal fee for water well contractors will be set by the Board but cannot exceed \$50.

Ed Carney, director of the Department of Professional and Occupational Licensing stated that if Senate Bill 412 is passed it would make this bill obsolete.

There were no opponents to the bill.

The meeting was then opened to a question and answer period from the Committee

Senator Berg stated that Senate Bill 412 would void everything in this bill except perhaps Sections 2 and 8.

Representative Hurwitz closed.

CONSIDERATION OF HOUSE BILL 566: Representative Andrea Hemstead of district 40, chief sponsor of House Bill 566, gave a brief resume of the bill. This bill is an act to define electrolylogy to mean removal of superfluous hair with an electrified needle and to require a cosmetology license for the removal of superfluous hair by a means other than electrolylogy.

Section 1 defines the practice and teaching of cosmetology to include the practice of removing superfluous hair by a means other than electrolylogy.

Section 2 defines "electrology" as the permanent removal of superfluous hair by destroying the hair roots by the passage of an electric current with an electrified needle. It also adds that electrolylogy does not include the practice of pilethermology.

Section 3 provides that a license is required for persons removing superfluous hair by means other than electrolylogy.

PUBLIC HEALTH
PAGE FOUR
MARCH 23, 1981

Section 4 outlines the qualifications for persons removing superfluous hair by means other than electrolysis.

Section 5 provides that a salon in which superfluous hair is removed must be licensed by the board.

Section 6 provides for a fee to be set by the board for both the person and the salon seeking a license under this chapter.

Helen Aruthur of Great Falls spoke on behalf of the bill. She stated that the reason for introducing this bill is because the public has become confused as to what electrolysis is and have confused as to what electrolysis is and have confused permanent hair removal by electrolysis with the hair removal by electronic tweezer machines, because they have been advertised in the past under electrolysis. The result is that people have spent money to have their hair permanently removed by tweezer machines, have been disappointed and since they confuse this type of hair removal with electrolysis, it has been brought to the electrolysis profession into disrepute with some of the public. Also, since tweezer machine operators deal with the public, and since they attempt to introduce electricity into the skin, and since other types of hair removal have to be licensed and inspected, and operate under the rules and regulations, the State Board of Cosmetology has requested that a bill be passed that will place the electronic tweezer machines under that board.

The F.D.A. Bureau of Medical Services, has stated as of Dec. 9, 1980, that the "tweezer type of device is limited to the temporary removal of superfluous hair". Both the Removatron and Nu-Trolysis devices are named specifically by the F.D.A. in this category. Mrs. Arthur handed out many letters in support of her testimony.

With no further proponents, Chairman Hager called on the opponents.

Sandra Williamson of Missoula who operates a Removatron Clinic in her city told the Committee of the method which she uses. Most people must come for weekly treatments. Cleanliness is of utmost importance.

Patty Foster, who with her sister operates a Removatron Clinic in Missoula, stated that they had attended a one day clinic sponsored by Removatron of Boston for their training. They are in constant touch with the main office in Boston to learn more

PUBLIC HEALTH
PAGE FIVE
MARCH 23, 1981

new techniques. They are also in constant contact with others in their profession.

Brad Luck, at attorney from Missoula, stood in opposition to the bill. He stated that he was representing the two previous witness. They do not in any way want to be confused with electrolysis. Mr. Luck stated this is just another infringement on small business of Montana.

With no further opponents, the meeting was opened to a question and answer period from the Committee.

Senator asked the people running the Removatron Clinic in Missoula if there is a chance of endangering the health of the person from this process. Mr. Luck stated that a persons health is not endangered from this process. There is no scaring or buring the skin from this process. However, they do see emotional and psychological probelms from people that are not able to get rid of unwanted hair.

Senator Olson asked to see the Tweezer Machine which they ladies had with them.

They Removatron Clinic is neither licensed nor inspected by any one. There is no school for this.

Senator Johnson asked how many operators there are in the state at the present time. There are nine.

Electrolysis school requires at least 500 hours of training and some schools require 2,000 hours of training.

Electrolysis is used also by the medical profession.

Representative Hemstead closed. She stated that she has several letters which she would like to turn into the Committee for their study which is in support of the bill.

The tweezer method is listed with electrolysis in the yellow pages of the telephone book.

She asked the Committee to look favorably upon the bill and concur with the House.

DISPOSITION OF SENATE BILL 431: This is the bill sponsored by Senator Tom Hager which is to recycle litter.

PUBLIC HEALTH
PAGE SIX
MARCH 23, 1981

A motion was made by Senator Berg that the Committee reconsider their previous action on the bill. Motion carried unanimously.

Kathleen Harrington, staff researcher, explained the proposed changes to the bill.

A motion was made by Senator Berg that proposed amendments be adopted. Motion carried unanimously.

A motion was made by Senator Berg that Senate Bill 431 receive a recommendation of DO PASS, as amended from the Committee. Motion carried unanimously. (See attachments.)

Senator Johnson made a motion that the statement of intent be adopted. Motion carried unanimously.

Senator Berg asked the Committee whether or not the statement of intent should be amended to further explain the "advisory council".

DISPOSITION OF HOUSE BILL 671: This bill is sponsored by Representative Burt Hurwitz. It is an act to revise fees for various boards allocated to the Department of Professional and Occupational Licensing.

A motion was made by Senator Himsal that HB 671 be tabled being as Senate Bill 412 has passed to the other house and it would make this bill obsolete. Motion carried unanimously.

DISPOSITION OF HOUSE BILL 437: Representative Menehan is the sponsor of this bill. This bill is an act to revise the responsibilities of the Alcoholism Services Center located at the Galen State Hospital and to change its name.

A motion was made by Senator Berg that HB 437 receive a recommendation of BE CONCURRED IN from the Committee. Motion carried with all voting "yes" except Senator Johnson who voted "no".

DISPOSITION OF HOUSE BILL 167: Representative Metcalf is the sponsor of this bill. It is an act to include dentist in the freedom of choice requirement for disability insurance policies regarding selection of health care practitioners.

A motion was made by Senator Halligan that HB 167 receive a BE CONCURRED IN recommendation from the Committee. Motion carried unanimously. Senator Himsal will carry this bill on the floor.

PUBLIC HEALTH
PAGE SEVEN
MARCH 23, 1981

DISPOSITION OF HOUSE BILL 504: Representative Moore is the sponsor of House Bill 504 which is an act to revise the qualification requirements for superintendent of the Galen State Hospital.

A motion was made by Senator Johnson that HB 504 receive a BE CONCURRED IN recommendation from the Committee. Motion carried with all Senators voting "yes" except Senator Olson who voted "no". Senator Johnson will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 517: Representative Bardonoue is the sponsor of House Bill 517, which is an act to repeal the law relating to eugencial sterilization and the Board of Eugenics.

Senator Norman made a motion that House Bill 517 BE CONCURRED IN. Motion carried. Senator Norman will carry this bill on the floor.

DISPOSITION OF HOUSE BILL 554: Representative Bergene is the chief sponsor of House Bill 554. This bill is an act to provide for the certification of social workers; creating a State Board of Social Work Examiners and prescribing its powers and duties; establishing grounds and procedures for disciplinary proceedings; creating a communications privilege; and providing penalties for violations.

A motion was made by Senator Berg that HB 554 BE CONCURRED IN.

Senator Norman stated that most people doing social work do not qualify under this bill.

Senator Berg stated that there are some social workers that would really like to see this bill passed in our state right now.

Senator Norman stated that most of the social workers would be coming from out of state to work as that is where more of them are that have a masters degree in social work. There will be two grades of social workers and it will not accomplish what the bill really wants to do.

Senator Halligan stated that the bill is not focused enough.

PUBLIC HEALTH
PAGE EIGHT
MARCH 23, 1981

A Roll Call Vote was taken on the motion of Senator Berg that HB 554 BE CONCURRED IN. Motion failed. (See attachments.)

DISPOSITION OF HOUSE BILL 80: Representative Pistoria is the sponsor of the bill. HB 80 is an act to remove the bond requirement for persons who are protective payees for recipients of public assistance.

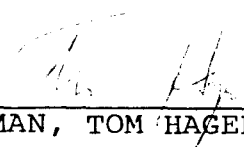
A motion was made by Senator Olson that the Statement of Intent to HB 80 be amended to clear up some problems with the wording. Motion carried. (See attachments.) Motion carried.

A motion was made by Senator Halligan that Statement of Intent recieve a BE CONCURRED IN, as amended recommendation from the Committee. Motion carried.

A motion was made by Senator Berg that HB 80 BE CONCURRED IN. Motion carried unanimously.

ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety Committee will be held on Tuesday, March 24, 1981 for executive session.

ADJOURN: With no further business the meeting was adjourned.



CHAIRMAN, TOM HAGER

eg

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 HOUSE Bill No. 554 Time 1:45

NAME	YES	NO
TOM HAGER		✓
MATT HIMSL		✓
S. A. OLSON		✓
JAN JOHNSON		✓
BILL NORMAN		✓
HARRY K. BERG		
MICHAEL HALLIGAN		✓

Elaine Graveley
Secretary
ELAINE GRAVELEY

Tom Hager
Chairman
SENATOR TOM HAGER

Motion: A motion was made by Senator Berg that House Bill 554
receive a BE CONCURRED IN recommendation from the Committee.
Motion failed.

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

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date Mar 23

NAME	PRESENT	ABSENT	EXCUSED
Tom Hager	/		
Matt Hims1	/		
S. A. Olson	/		
Jan Johnson	late		
Dr. Bill Norman	late		
Harry K. Berg	/		
Michael Halligan	/		

Each day attach to minutes.

STANDING COMMITTEE REPORT

.....MARCH 23..... 19 81.....

MR.PRESIDENT:.....

We, your committee onPUBLIC HEALTH, WELFARE & SAFETY.....

having had under considerationHOUSE..... Bill No.437.....

MENEHAN (BERG)

Respectfully report as follows: ThatHOUSE..... Bill No.437.....

He
~~DO PASS~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

.....MARCH 23,.....1981.....

MR.PRESIDENT:.....

We, your committee onPUBLIC HEALTH, WELFARE & SAFETY.....

having had under considerationHOUSE..... Bill No. 167.....

METCALF

(HIMSL)

Respectfully report as follows: That.....HOUSE..... Bill No. 167.....

He

~~XXXXXX~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

.....MARCH 23,..... 19 81.....

MR. PRESIDENT:.....

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY.....

having had under consideration HOUSE..... Bill No. 504,.....

MOORE (JOHNSON)

Respectfully report as follows: That.....HOUSE..... Bill No. 504,.....

4/c
~~REPAIR~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 23, 19 81

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration HOUSE Bill No. 517

BARDANOUE (NORMAN)

Respectfully report as follows: That HOUSE Bill No. 517

HC
~~DOXASS~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

.....MARCH 23..... 19 81.....

MR.**PRESIDENT:**.....

We, your committee on**PUBLIC HEALTH, WELFARE & SAFETY**.....

having had under consideration**HOUSE**..... Bill No. **554**.....

BERGENE

(HAGER)

Respectfully report as follows: That.....**HOUSE**..... Bill No. **554**.....

He
~~DO NOT~~ BE NOT CONCURRED IN

STANDING COMMITTEE REPORT

.....MARCH 23,..... 19...81..

MR.PRESIDENT:.....

We, your committee on.....PUBLIC HEALTH, WELFARE & SAFETY.....

having had under considerationHOUSE..... Bill No.80..

PISTORIA

(BERG)

Respectfully report as follows: That.....HOUSE..... Bill No.80.....

~~TO PASS~~ BE CONCURRED IN

STATEMENT OF INTENT ATTACHED

STANDING COMMITTEE REPORT

MARCH 23, 19 81

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration STATEMENT OF INTENT, HOUSE Bill No. 80

Respectfully report as follows: That STATEMENT OF INTENT, HOUSE Bill No. 80,

third reading bill, be amended as follows:

1. Page 1, line 15.

Following: "in"

Strike: "their"

Insert: "the"

2. Page 2, line 18.

Following: "duties"

Strike: ", "

Insert: "and"

3. Page 4, line 6.

Following: "food"

Insert: ", "

4. Page 4, line 8.

Following: "by"

Insert: "The"

XEROX

HC

(CONTINUED)

MARCH 23 19 81
PUBLIC HEALTH
STATEMENT OF INTENT
HOUSE BILL 80

5. Page 4, line 16.

Following: "in"

Strike: "MCA"

Following: " "

Insert: "MCA" _____ "

STANDING COMMITTEE REPORT

..... March 23 19.81

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration STATEMENT OF INTENT, SENATE Bill No. 431

Respectfully report as follows: That the STATEMENT OF INTENT, SENATE Bill No. 431
be adopted.

STATEMENT OF INTENT RE: 431

A statement of intent is required for this bill because it delegates rulemaking authority to the Department of Health in order to provide programs for litter control and resource recycling.

The intent of Senate Bill 431 is to accomplish the following goals:

1. To make one agency responsible for litter collection and control and to expend funds for this purpose;
2. to utilize litter patrols and educational programs to encourage control of litter;
3. to fund required studies of litter and recycling;
4. to provide grants to develop and produce educational programs concerning litter and recycling;

DO PASS
5. to develop and produce information about this act and programs developed under it;

H.C.

March 23, 1981

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6. to develop and implement pilot programs for litter and recyclable materials collection; and

7. to provide technical and informational assistance to recycling centers.

The Council will also review the progress of all programs developed by the administering agency and those funded with grants.

Rules to be promulgated and adopted under this act include, but are not limited to:

1. Standards for contracts with other persons for:

a) the development of educational and informational programs and materials; and

b) studies required by the act.

2. Requirements for grant applicants; standards for the evaluation of proposals; the maximum dollar amount allowable for a single grant; and other conditions necessary to provide for a variety of programs.

First adopted by the Senate Public Health, Welfare & Safety Committee on the 23rd day of March, 1981.

L.C.

TOM HAGER,

Chairman.

STANDING COMMITTEE REPORT

MARCH 23 1981

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration SENATE Bill No. 431

Respectfully report as follows: That SENATE Bill No. 431

introduced bill be amended as follows:

1. Title, line 6.

Following: "PRODUCTS;"

Strike: "AMENDING SECTION 15-30-111, MCA;"

2. Strike: all of the bill following the enacting clause

Insert: "Section 1. Short title. [This act] may be cited as the
"Resource Recycling Act of 1981".

Section 2. Purpose. (1) It is the intent of the legislature to encourage the recycling of materials and products used in this state in order to conserve resources and energy and maintain the natural environment of the state as nearly litter free as possible and to encourage litter control and recycling.

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(CONTINUED)

(2) It is the belief of the legislature that official encouragement of private and public recovery of materials results in the recovery and reuse of major quantities of basic materials and a significant savings of energy.

(3) It is the belief of the legislature that a litter-free environment is possible through enactment of a strong and well-balanced program of litter prevention and public education, because it is people who litter, not the materials and products that become litter.

(4) The legislature acknowledges that the people of this state have expressed a desire for a comprehensive litter and recycling act administered by a single agency that will address all types of litter and enhance multiproduct recycling.

Section 3. Definitions. In [this act], unless the context requires otherwise, the following definitions apply:

(1) "Account" means the resource recycling account provided for in [section 9].

(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(3) "Highways" means those roadways designated by law as primary or secondary highways of the state.

(4) "Litter" means all improperly discarded and uncontrolled waste material thrown or deposited on land or water.

(5) "Person" means any individual, partnership, business, corporation, organization, subdivision of the state or local government, or other legal entity of any kind.

(6) "Recycling" means the process of collecting, sorting, treating, and re-using a waste material.

(7) "Re-use" means the process of returning a commodity to the economic stream for re-use as a commodity.

Section 4. Advisory council. (1) There is an advisory council to the department that consists of seven members appointed by the governor as follows:

(a) a representative of either the retail or wholesale food industry;

(b) a representative of the recycling industry;

(c) a representative of an established environmental organizations; and

(d) four other members.

(2) Members appointed to the council must be aware of and concerned with achieving the goals of [this act].

(3) Members serve at the pleasure of the governor.

(4) Members of the council shall serve without compensation but are entitled to per diem and travel expenses, as provided for in 2-18-501 through 2-18-503, for each day in attendance at council meetings.

Section 5. Meetings--duties. (1) The council shall meet at least four times a year.

(2) The council shall:

(a) advise the department concerning litter reduction and increased recycling methods;

.....CONTINUED.....

(b) encourage participation by industry, labor municipalities, organizations, and the public in programs established pursuant to [this act];

(c) evaluate reports and programs of the department established pursuant to [this act]; and

(d) following at least one public hearing, report to the 48th Montana legislature concerning:

(i) an evaluation of department programs established pursuant to [this act];

(ii) legislation to further programs judged successful by the council, if needed; and

(iii) termination of programs judged unsuccessful by the council.

Section 6. Duties of the department. (1) The department shall:

(a) serve as the coordinating agency between agencies of government and private persons involved in litter reduction, control, and collection and in recycling activities;

(b) encourage, organize, and coordinate voluntary local campaigns or campaigns developed by local persons seeking to focus public attention on programs to control litter and increase recycling;

(c) engage in educational programs to foster and sustain public awareness of litter;

(d) identify and adopt public relations and education programs; and

(e) study, for the purpose of reporting to the advisory council no later than August 1, 1982:

(i) the status of recycling and re-use, including the respective percentage of total waste comprised, the rates of recycling and re-use, and the barriers to increased recycling and re-use for each of the following materials and products:

(A) aluminum and aluminum products;

(B) other nonferrous metals and non-ferrous metal products;

(C) ferrous metal and ferrous metal products;

(D) glass and glass products;

(E) paper, including office paper, newspaper, computer cards and paper, corrugated paper, low-grade paper, and other paper products;

(F) plastic and plastic products;

(G) organic materials, including food and yard wastes;

(H) waste oil;

(I) wood and wood products; and

(J) textiles;

(ii) the strength of the secondary materials market for each of the materials listed in subsection (1)(e)(i), categorized as follows:

(A) stable market, with no additional incentives needed;

(B) weak market, with some additional incentives needed;

(C) potential market, with some additional incentives needed; or

(D) no foreseeable market;

CONTINUED

(iii) recommended legal or legislative action, if any, that the state of Montana can take to revise existing freight rates by the federal interstate commerce commission that discriminate against transportation of recycled materials;

(5) adopt rules under the Montana Administrative Procedure Act necessary to implement the provisions of [this act].

(2) The department may:

(a) contract with any person for the pickup and removal of litter from public places;

(b) contract with any person for educational programs designed to create public awareness of litter problems, recycling, and compliance with the provisions of [this act];

(c) expend money from the account established in [section 9].

Section 7. Surveys -- annual reports.

(1) Within 12 months of July 1, 1981, the department shall conduct or contract with a public agency or private entity to conduct a survey measuring the amount, by item count, volume, and weight, and composition of litter in selected areas of the state. The areas to be surveyed shall be chosen consistent with the necessity of measurement of progress and the need for annual, consistent identification of littering rates. The specific areas surveyed must be representative of the geographic areas and land uses in the state.

(2) The department shall conduct annual surveys designed for comparison with earlier surveys and report to the governor and the legislature the status and progress achieved by the programs established in [this act].

Section 8. Resource recycling account -- creation -- expenditures.

(1) There is a resource recycling account within the earmarked revenue fund created in 17-2-102. The state treasurer shall draw warrants from this account upon order of the department.

(2) The department may order warrants drawn from the account to:

(a) produce and distribute educational and informational materials concerning litter and recycling programs; and

(b) conduct surveys required by [section 7].

Section 9. Grants. The department may make grants to persons for the establishment and operation of programs authorized in [this act]. The time period for a grant may not exceed 18 months. A program qualifying for a grant shall be for one or more of the following:

(1) preparation and distribution to schools and the public of instructional materials for courses on litter abatement and recycling;

(2) development of public information on litter abatement and recycling, including radio and television public service announcements, newspaper ads, posters, leaflets and audio-visual aids.

(3) organization and operation of litter abatement and removal activities conducted by private organizations and service groups;

CONTINUED

- (4) assistance to recycling centers, including information and consultation on available technology, operating procedures, markets for materials, transportation, and publicity techniques through the organization of seminars and workshops with experts in the field;
- (5) the creation and expansion of litter law enforcement programs.

Section 10. Grants -- rules. The department shall adopt rules under the Montana Administrative Procedure Act that establish:

- (1) eligibility requirements for grant applicants;
- (2) standards for the evaluation of proposals submitted by applicants for grants;
- (3) the maximum dollar amount allowable for a single grant;
- (4) other conditions necessary to provide for a variety of programs.

Section 11. Littering prohibited -- penalty. (1) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(a) such property is an area designated by law for disposal of the material and the person is authorized by the proper public authority to so use the property; or

(b) the litter is placed in a receptacle or container installed for that purpose.

(2) This section may not be construed to restrict a private owner in the use of his own property if the placing, depositing, or dumping of waste matter by the owner on the property is controlled and does not create a public nuisance or a hazard to public health or safety.

(3) A person convicted of a violation of this section shall be punished by a fine of not less than \$10 or more than \$50. In addition to the fine, the court may order the person to gather and dispose of litter in an area for a length of time determined by the court.

Section 12. Department to coordinate litter collection.

(1) The department shall coordinate litter collection by state agencies.

(2) An agency of state government shall remove litter from litter receptacles placed by the agency.

(3) All litter must be collected and disposed of in a manner acceptable to the department."

*Section 13. Litter assessment. (1) A person engaged in the selling at wholesale of any of the items specified in subsection (6) shall remit to the state treasurer with his annual corporation or individual income tax return an additional litter tax equal to .015% of gross sales proceeds of such items.

(2) A person engaged in the selling at retail of any of the items specified in subsection (6) shall remit to the state treasurer with his annual corporation or individual income tax return an additional litter tax equal to .015% of gross sales proceeds of such items.

CONTINUED

Chairman.

(3) For persons engaged in the selling at wholesale and retail of any of the items specified in subsection (6), the litter tax shall be based on the gross sales proceeds of the specified items at either the wholesale or retail level, whichever is higher.

(4) The department of revenue shall remit to the state treasurer by April 15 of each year the litter tax based upon the gross retail sales proceeds as provided in subsection (2) of liquor and wine from state stores.

(5) The state treasurer shall deposit the money received under this section in the earmarked revenue fund to the credit of the resource recycling account.

(6) The litter assessment shall be calculated only on gross sales proceeds of the following products:

- (a) food for human and pet consumption;
- (b) groceries;
- (c) cigarettes and other tobacco products;
- (d) soft drinks and carbonated beverages;
- (e) liquor, wine, beer, and other malt beverages;
- (f) tires, motor oil, and crankcase and fuel additives;
- (g) cleaning agents and toiletries;
- (h) nonprescription drugs;
- (i) household paper and paper products, including magazines, periodicals, and newspapers; and
- (j) glass, metal, or plastic containers or fiber containers made of synthetic material.

(7) A person selling less than \$50,000 worth of all the items specified in subsection (6) during a calendar year is exempt from the tax imposed by this section.

(8) The total annual tax required to be paid under this section by a person may not exceed \$20,000."

"Section 14. Public notice enforcement.

(1) Statements and penalties for violating provisions of [this act] shall be posted at such public places as the department considers necessary.

(2) The provisions of [this act] and all rules adopted by the department in accordance with [this act] shall be enforced by peace officers of this state, including wardens of the department of fish, wildlife, and parks."

"Section 15. Municipal litter ordinances -- restrictions.

(1) A municipality may adopt an ordinance that prohibits and prescribes the same conduct prohibited and prescribed in [section 12] or any portion thereof.

(2) No local government may enact an ordinance requiring deposits on containers or requiring an assessment on litter-related products."

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PUBLIC HEALTH
SENATE BILL 431

MARCH 23, 19 81

PAGE SEVEN

"Section 16. Litter patrols. The department may design litter patrol programs and provide financial assistance through grants for litter pickup and removal using youths aged 14 to 17, on a seasonal basis."

"Section 17. Repealer. Section 61-8-365, MCA, is repealed."

"Section 18. Effective date. This act is effective July 1, 1981."

"Section 19. Coordination. If SB 258 [LC 1003] is passed and approved the definition of "department" in section 3(2) is changed to the department of natural resources and conservation provided for in Title 2, chapter 15, part 33."

J.C.
And, as so amended

DO PASS

STATEMENT OF INTENT ATTACHED

DATE _____

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

HOUSE BILL 577

Introduced by Representative Harrington at the request of the Board of Professional and Occupational Licensing.

This bill revises certain laws administered by the Montana State Board of Medicals Examiners.

Section 1 provides that the Board shall set the date of annual election of officers rather than having to elect officers at its first meeting each year.

Section 2 provides that the licensee must have evidence of his payment of the annual registration fee in his person or in his office as long as the registration is valid. It also provides for the forfeiture instead of revocation of the license if the registration fee is not paid.

Section 3 provides that an insurer must report the final disposition of any claim for alleged professional negligence to the State Board of Medical Examiners within 30 days of the final disposition. The final report shall include the details of the settlement and the dollar amount if any was awarded.

HOUSE BILL 671

Introduced by Representative Hurwitz by the request of the Department of Professional and Occupational Licensing.

This bill increases renewal fees.

Section 1 increases the renewal fees for osteopathic physicians from \$15 to \$25 for those in active practice and from \$7.50 to \$17.50 for those not in active practice.

Section 2 increases the renewal fee for podiatrists and deletes the requirement that a podiatrist's license be filed with the county clerk and recorder.

Section 3 provided that Nursing Home Administrators and applicants pay an examination fee that would be set by the board. They must also pay a late renewal fee for failure to pay the license or registration fee for failure to complete the continuing education requirements.

Section 4 provides an increase in the fee charged to a chiropractor that has had his license revoked and later restored (From \$50 to \$150.)

Section 5 provides for an increase in the license fee for hearing aid dispensers from \$80 to \$100.

Section 6 provides an increase in renewal fees for psychologists from \$20 to \$50 to \$40 to \$100.

Section 7 provides an application fee for cosmetologists which may not exceed \$10.

Section 8 provides that the renewal fee for water well contractors will be set by the Board but cannot exceed \$50.

NAME :

DATE: 3-23-81

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOUSE BILL 566

Introduced by Representative Hemstad.

This bill provides for the licensing by the Board of Cosmetology of individuals who remove superfluous hair by means other than electrolysis.

Section 1 defines the practice and teaching of cosmetology to include the practice of removing superfluous hair by a means other than electrolysis.

Section 2 defines "electrolysis" as the permanent removal of superfluous hair by destroying the hair roots by the passage of an electric current with an electrified needle. It also adds that electrolysis does not include the practice of pilethermology.

Section 3 provides that a license is required for persons removing superfluous hair by means other than electrolysis.

Section 4 outlines the qualifications for persons removing superfluous hair by means other than electrolysis.

Section 5 provides that a salon in which superfluous hair is removed must be licensed by the board.

Section 6 provides for a fee to be set by the board for both the person and the salon seeking a license under this chapter.

A statement of intent may be needed.

NAME: Bradley J. Luck DATE: 3/23/81

ADDRESS: 1232 Lincoln Parkway, Missoula, MT

PHONE: 728-1200

REPRESENTING WHOM? Sandy Williamson Patti Foster

APPEARING ON WHICH PROPOSAL: HR 566

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Sandra L. Muma DATE: 3/23/81

ADDRESS: 1837 River Rd. Meriden, CT 06461

PHONE: 542-2828

REPRESENTING WHOM? Removal of Hair Removal

APPEARING ON WHICH PROPOSAL: 566

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Senate

MEMO TO MEMBERS OF THE STATE HOUSE OF REPRESENTATIVES, HELENA, MONTANA
RE: HB 566

THIS BILL HAS BEEN INTRODUCED BY MEMBERS OF THE MONTANA ELECTROLOGISTS ASSOCIATION, WITH THE SUPPORT OF THE MONTANA STATE BOARD OF COSMETOLOGISTS.

THE PURPOSE OF THIS BILL IS TO DEFINE ELECTROLOGY AND TO PLACE THE ELECTRONIC TWEEZER MACHINES UNDER THE STATE BOARD OF COSMETOLOGY.

THE REASON FOR INTRODUCING THIS BILL IS BECAUSE THE PUBLIC HAS BECOME CONFUSED AS TO WHAT ELECTROLOGY IS AND HAVE CONFUSED PERMANENT HAIR REMOVAL BY ELECTROLOGY WITH THE HAIR REMOVAL BY ELECTRONIC TWEEZER MACHINES, BECAUSE THEY HAVE BEEN ADVERTISED IN THE PAST UNDER ELECTROLYSIS. THE RESULT IS THAT PEOPLE HAVE SPENT MONEY TO HAVE THEIR HAIR PERMANENTLY REMOVED BY TWEEZER MACHINES, HAVE BEEN DISAPPOINTED AND SINCE THEY CONFUSE THIS TYPE OF HAIR REMOVAL WITH ELECTROLOGY, IT HAS BROUGHT THE ELECTROLYSIS PROFESSION INTO DISREPUTE WITH SOME OF THE PUBLIC. ALSO, SINCE TWEEZER MACHINE OPERATORS DEAL WITH THE PUBLIC, AND SINCE THEY ATTEMPT TO INTRODUCE ELECTRICITY INTO THE SKIN, AND SINCE OTHER TYPES OF HAIR REMOVAL HAVE TO BE LISCENCED AND INSPECTED, AND OPERATE UNDER RULES AND REGULATIONS,, THE STATE BOARD OF COSMETOLOGY HAS REQUESTED THAT A BILL BE PASSED THAT WILL PLACE THE ELECTRONIC TWEEZER MACHINES UNDER THAT BOARD.

ELECTROLYSIS AS DEFINED IN THIS BILL WAS DISCOVERED AND HAS BEEN USED BY THE MEDICAL PROFESSION FOR OVER A HUNDRED YEARS, AND IS THE DEFINITION USED BY ELECTROLOGISTS AROUND THE WORLD.

PRESENTLY ELECTROLOGISTS ARE LISCENCED AS ELECTROLOGISTS UNDER THE STATE BOARD OF COSMETOLOGY. THE ELECTRONIC TWEEZER MACHINES ARE NOT LISCENCED OR INSPECTED. IT WAS SUPPOSED THAT WHEN THE WORDING OF THE DEFINITION OF ELECTROLYSIS WAS CHANGED TWO YEARS AGO THAT THE TWEEZER MACHINES WOULD COME UNDER THAT DEFINITION, BUT TO DATE, IT HAS NOT BEEN PROVEN SUEFICIENTLY THAT HAIR REMOVAL BY ELECTRONIC TWEEZER METHOD IS PERMANENT, THUS THEY WOULDN'T FIT UNDER THIS DEFINITION, AND ELECTROLOGISTS IN MONTANA DO NOT WANT ANY TYPE OF HAIR REMOVAL LISCENCED AS ELECTROLYSIS UNLESS AND UNTIL IT IS APPROVED BY THE F.D.A. AND ELECTROLOSYS ASSOCIATIONS IN GENERAL AS BEING PERMENTANT. THIS WILL HELP TO KEEP THE REPUTATION OF ELECTROLOGISTS ON THE HIGH LEVEL OF PROFESSIONALISM THAT WE SEEK TO ATTAIN AND TO KEEP. IT WILL ELIMINATE CONFUSION ON THE PART OF THE PUBLIC, THUS PROTECTING THE PUBLIC WELFARE ALSO.

THE F.D.A. , BUREAU OF MEDICAL DEVICES, HAS STATED AS OF DEC.9, 1980 THAT "THE TWEEZER TYPE DEVICE IS LIMITED TO THE 'TEMPORARY REMOVAL OF SUPERFLUOUS HAIR.' " Both the Removatron and Nu-Trolysis devices are named specifically by the F.D.A. in this category.

THE F.D.A. ALSO HAS A LAWSUIT PENDING IN NEW YORK FEDERAL DISTRICT COURT AGAINST THE DEPILITRON COMPANY REGARDING FALSE ADVERTISING OF PERMANENT HAIR REMOVAL. ACCORDING TO CAL CAMPBELL, DEPT. OF HEALTH IN HELENA, PLEA BARGAINING IS GOING ON AT THE PRESENT.

ALBERT KLIGMAN, PROFESSOR OF DERMATOLOGY OF THE HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA HAS STATED IN REGARD TO THE DEPILITRON MACHINE "THE DEVICE IS A HOAX, AND I WISH TO HAVE IT ENTERED IN THE RECORD THAT I SUPPORT EFFORTS TO HAVE DEPILITRON EXPOSED AND DIS-CREDITED." (all electronic tweezer machines operate under the same principle and theory as Depilitron.)

MR. JAMES OCCHIOGROSSO, PRES. OF CONDESCO CORP., AN ELECTRONICS ENGINEERING COMPANY, HAS STATED THAT "IT IS CONCEIVABLE THAT A HUMAN HAIR CAN TRANSFER ENERGY FROM A TWEEZER DOWN INTO A HAIR FOLLICLE, BUT THE FREQUENCY AT WHICH SUCH A MACHINE WOULD HAVE TO OPERATE AND THE REQUIRED POWER LEVELS WOULD BE EXTREMELY DIFFICULT TO OBTAIN AND WOULD BE HAZARDOUS TO HUMAN LIFE." and also "THE TWEEZER MACHINE PROMOTERS ARE USING THE FACT THAT ELECTRICAL ENERGY CAN INDEED BE PASSED FROM ONE POINT TO ANOTHER BY TRAVELING ALONG THE SURFACE OF A NORMALLY NON-CONDUCTIVE ELEMENT, BUT, WHAT THEY NEGLECT TO TELL YOU IS THAT THE PHYSICAL DIMENSIONS AND CHARACTERISTICS OF HUMAN HAIR MAKE THIS EFFECT IMPOSSIBLE TO OBTAIN.

STATE OF MONTANA

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING

BOARD OF COSMETOLOGISTS

BOARD MEMBERS

JUNE BAKER
PRESIDENT
MILES CITY, MONTANA

DOROTHY TURNER
VICE-PRESIDENT
GREAT FALLS, MONTANA

JACQUES ROMEIJN
SECRETARY
BILLINGS, MONTANA



ED CARNEY, DIRECTOR

LaLONDE BUILDING
HELENA, MONTANA 59601
(406) 449-3737

February 18, 1981

To: Chairman, Human Services Committee
and Committee Members,
From: *Kathryn M. Tucker*
Kathryn M. Tucker, Administrative Assistant
for Board of Cosmetologists
Re: HB 566, Defining Electrology

On behalf of the Board of Cosmetologists, I would like to inform this committee that the board of cosmetologists is in basic agreement with this bill. However, to more adequately protect the consuming public, they recommend an amendment to this bill that will require all individuals performing the service of "hair removal", by other than the electric needle, be required to have the background and training of a cosmetologist in the study of skin textures and hair - - - or, require the service be performed only in licensed cosmetology establishments under supervision of licensed cosmetologists.

The board plans to propose a "grandfather clause" in their rules that will allow them to grant licenses for "hair removal" to all individuals performing this service prior to the enactment of this proposed legislation, however, after the bill becomes law, applicants lacking this proposed training would not be eligible for a license.

In addition, the board would like to inform this committee that upon the recommendation of the Legislative Audit Committee, Section 37-32-103, Sub-section (2) is being deleted from the Statute.

STATE OF MONTANA

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING

BOARD OF COSMETOLOGISTS

BOARD MEMBERS

JUNE BAKER
PRESIDENT
MILTS CITY, MONTANA

DOROTHY TURNER
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STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL LICENSING
BOARD OF COSMETOLOGISTS

BOARD MEMBERS

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BILLINGS, MONTANA



ED CARNEY, DIRECTOR

LaLONDE BUILDING
HELENA, MONTANA 59601
(406) 449-3737

February 19, 1980

Helen Arthur
600 Central Plaza #106
Great Falls, Mt. 59405

Dear Ms. Arthur:

Your letter dated January 4, 1980 was read and discussed during the February board meeting concerning your letter of complaint that the board continues to allow tweezer-type hair removal to continue being practiced in an electrolysis salon.

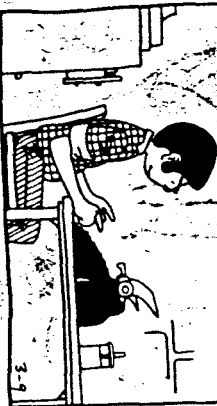
Please be advised, pursuant to Section 37-32-102, M.C.A., the definition of electrology means the study and professional practice of removing superfluous hair by destroying the hair roots by passage of an electric current, by any method. Thus, until the definition of electrology is changed by the Legislature, the method of electrolysis used would be considered as a choice by the operator and /or client.

As you may recall from prior conversations you have had with this office, the Legislative Code Committee will not allow any rules, separating the methods used for removal of superfluous hair and we have reached a stalemate on this particular problem. [The board has indicated that they would be delighted if you would submit to the Legislature, a bill to cover whatever you feel will cover this problem, also, they wish you to know they do appreciate your concern and help and any help or assistance you can give will be greatly appreciated.]

Sincerely,

Kathryn M. Tucker
Kathryn M. Tucker
Administrative Assistant
Board of Cosmetologists

Grooming Tips



FUNKY WINKERBEAN

What to do if a rabbit
sits on your nose...



BATLUK

or, how to get rid of
unwanted facial haers!



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FDA Enforcement Report

Press Office
Food and Drug Administration

5600 Fishers Lane
Rockville, Md. 20857

(202) 245-1144

The FDA Enforcement Report is published weekly and contains information on prosecutions, seizures, injunctions, and recalls. The following is an explanation of these actions:

PROSECUTION: A criminal action filed by FDA against a company or individual charging violation of the law. Prosecutions listed below have been filed with a court but not yet tried or concluded.

SEIZURE: An action taken to remove a product from commerce because it is in violation of the law. FDA initiates a seizure by filing a complaint with the U.S. District Court where the goods are located. A U.S. marshal is then directed by the court to take possession of the goods until the matter is resolved. The date listed is the date a seizure request is filed, not the date of seizure.

INJUNCTION: A civil action filed by FDA against an individual or company seeking, in most cases, to stop a company from continuing to manufacture or distribute products that are in violation of the law. Injunctions listed have been filed with the court but not concluded.

RECALL: Voluntary removal by a firm of a defective product from the market. Some recalls begin when the firm finds a problem, others are conducted at FDA's request. Recalls may involve the physical removal of products from the market or correction of the problem where the product is located.

August 30, 1978

Complaints For Injunction Filed:

Against: AHC Pharmacal, Inc., Miami, Florida
Product: Various Drugs (77-140-843)
Charge: Misbranded - Products' labeling fails to bear an accurate statement of quantity of contents; labeling fails to bear the name of the drugs; labeling fails to bear adequate directions for use; products were marketed without approved New Drug Applications
Filed: August 11, 1978 - U.S. District Court for the Southern District of Florida at Miami; Civil #78-3585-CIV-JG, Injunction #823

Seizure Actions Filed:

Product: Depilatron Devices (78-130-072)
Charge: Misbranded - Product labeling is false and misleading
Responsible Firm: Depilatron Hair Removal Clinic, Minneapolis, Minnesota
Filed: July 26, 1978 - U.S. District Court for the District of Minnesota; Civil #4-78-309, FDC #61815

Colleague, these two form letters are the latest I have sent out regarding Depilatron. Share the information with any colleague who you think may be interested.

Rose

December 9, 1980

Food and Drug Administration
8757 Georgia Avenue
Silver Spring MD 20910

Ms. Helen Arthur
600 Central Plaza, #106
Great Falls, Montana 59401

Dear Ms. Arthur:

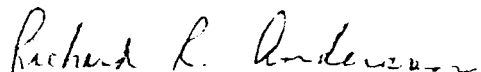
This is in response to your recent letter requesting information concerning the different types and methods of machines used in electrolysis.

There are basically two types of hair removal devices being marketed at the present time. The electrolytic type uses a thin needle which is inserted into the hair follicle. By passage of an electric current through the needle, the follicle is damaged to the point that it will no longer produce hair. This method, when properly done by specially trained people, can effect permanent hair removal. However, if this procedure is applied improperly, infection and permanent scarring can result.

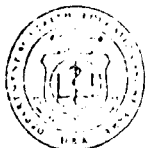
The Removatron, which is a "tweezer" type device that holds the hair strand above the skin line and transmits an electrical current down the shaft, is limited to the "temporary removal of superfluous hair." We are not aware of any evidence to support the effectiveness of this type of device for anything other than simply "tweezing" the hair. Any representations or suggestions that the device will accomplish permanent hair removal may misbrand the device and may place it in violation of federal law.

If we can be of any further assistance, please do not hesitate to let us know.

Sincerely yours,



Richard R. Anderson
Division of Compliance Operations
Bureau of Medical Devices



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
SILVER SPRING, MARYLAND 20910

April 18, 1980

Ms. Claire Lofgren
10648 Camino Real
Fountain Valley, CA 92708

Dear Ms. Lofgren:

This is in response to your recent letter regarding permanent and painless hair removal.

Generally, two types of hair removal devices are being marketed at the present time. The electrolytic type uses a thin needle which is inserted into the hair follicle. By passage of an electric current through the needle, the follicle is damaged to the point where it will no longer produce hair. The electrolytic method, when properly done, can effect permanent hair removal.

The tweezer type, which includes the Nu-Trolysis device, holds the hair strand above the skin and transmits an electrical current down the shaft. This type is limited "for temporary removal of superfluous hair." The Food and Drug Administration (FDA) has a case pending against one of the companies promoting this type of product. The U.S. District Court for the Southern District of New York presently has under consideration a seizure case against Depilitron Incorporated. It is the government's contention that these devices are not effective for permanent hair removal and in fact are no more effective than a regular pair of tweezers.

Without representative labeling and advertising material which should accompany the sale and promotion of the device, we are unable to comment more definitively. You may wish to provide us with copies of the intended labeling and promotional material for review. This may be in rough draft form.

If we can be of any further assistance, please let us know.

Sincerely yours,

Bert L. Schrivener, Chief
Regulatory Guidance Branch
Bureau of Medical Devices



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
SILVER SPRING, MARYLAND 20910

January 23, 1980

The State of California has taken legal action against this device and so has the Food and Drug Administration (FDA). The California case was settled and the FDA case is still pending in the New York Federal District Court.

It is the opinion of the FDA that Depilatron is not effective for permanent hair removal. We have seen no well controlled scientific studies to substantiate such claims by tweezer type hair removal devices.

We trust this information is helpful.

Sincerely yours,

Richard R. Anderson
Division of Compliance Operations
Bureau of Medical Devices

Depillex

Depillex is an easily operated unit which makes possible the safe and completely, painless removal of superfluous hair without scarring or tissue damage.

The Depillex Unit is finished in white with black trim. The tweezers and foot switch are stored in a specially designed container at the front of the Unit. Depillex is a precision electronic instrument.

Other special features include:—

- Hours meter to record the total number of hours worked.
- Digital clock to assist operator and client.
- Red mains neon light.
- White neon to indicate when power is being applied to the tweezers.

The Unit has an elegant and sophisticated appearance inspiring confidence even in the most apprehensive.

Depillex

DEPILLEX is a completely new, safe and painless method of removing unwanted hair. The DEPILLEX method uses special electronic tweezers to grasp the hair, they do not touch the skin. The DEPILLEX current flows through the tweezers and after a few seconds the root of the hair is destroyed and painless removal can take place.

Cosmetic depilation

The Depillex method brings exciting new scope in the field of cosmetic depilation, where the comfortable removal of underarm or bikini line hair for example, is now possible. After treatment clients may use make-up as usual without any ill effects since there is no skin damage.

PATENTS APPLIED FOR

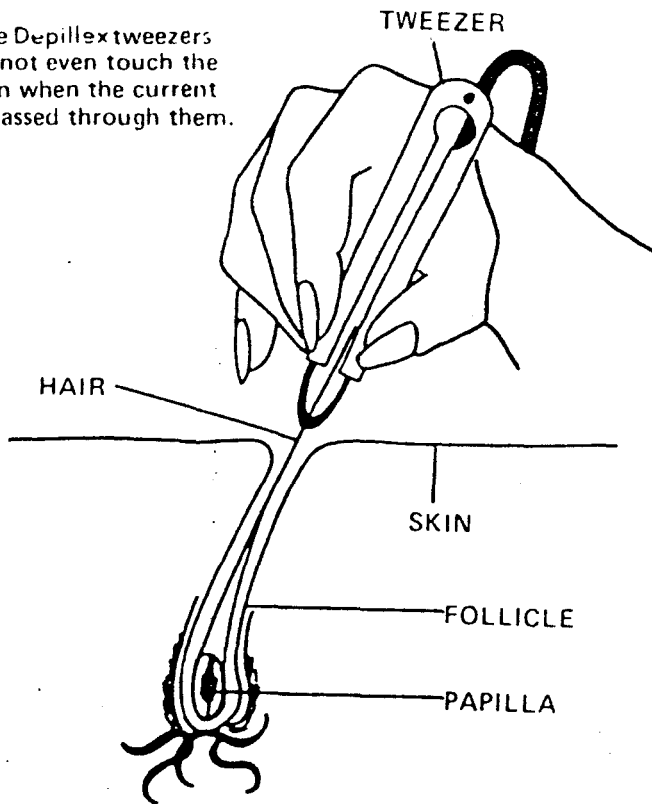
Depillex

IS THE ONLY ELECTRONIC TWEEZER THAT

1. You can buy for \$5,000.00
2. Lease and purchase at your option
3. No legal binding contracts
4. Our firm has a medical background in research and developing of electrology and skin care equipment
5. Depillex is the newest, most improved, medically tested ELECTRONIC TWEEZER on the market
6. F. C. C. regulations met



The Depillex tweezers do not even touch the skin when the current is passed through them.



FDA Enforcement Report

Press Office
Food and Drug Administration

5600 Fishers Lane
Rockville, Md. 20857

(202) 245-1144

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INJUNCTION: A civil action filed by FDA against an individual or company seeking, in most cases, to stop a company from continuing to manufacture or distribute products that are in violation of the law. Injunctions listed have been filed with the court but not concluded.

RECALL: Voluntary removal by a firm of a defective product from the market. Some recalls begin when the firm finds a problem, others are conducted at FDA's request. Recalls may involve the physical removal of products from the market or correction of the problem where the product is located.

Product:	Depillex Device (78-130-447)
Charge:	Misbranded - Product labeling is false and misleading
Responsible Firm:	B10 2000, Inc., and Bea Cranford, Inc., Irving, Texas
Filed:	September 8, 1978 - U.S. District Court for the Eastern District of Tennessee; Civil #CIV-2-78-147, FDC #61854

Product:	Flour (78-172-475)
Charge:	Adulterated - Product contaminated with a filthy substance and was held under insanitary conditions
Responsible Firm:	Trans-Florida Warehouse Corporation, Tampa, Florida
Filed:	September 19, 1978 - U.S. District Court for the Middle District of Florida at Tampa; Civil #78-769-CIV-TR, FDC #61741

Product:	WANS Suppositories (78-147-435)
Charge:	Product is a new drug marketed without an approved New Drug Application
Responsible Firm:	Aicon Laboratories (Puerto Rico), Inc., Humacao, Puerto Rico
Filed:	September 21, 1978 - U.S. District Court for the District of Puerto Rico; Civil #78-1830, FDC #61874

Product:	Maple Syrup (78-115-479)
Charge:	Adulterated and Misbranded - Syrup other than maple syrup has been substituted; product does not conform to a standard of identity for maple syrup
Responsible Firm:	Paul Pilgrim, DeKalb, Mississippi
Filed:	September 25, 1978 - U.S. District Court for the Western District of Oklahoma at Oklahoma City; Civil #78-1032-D, FDC #61893

IMPORTANT LETTER
please read immediately

The Food and Drug Administration has taken action against a "Depillex Unit" in Dallas, Texas. This unit was apparently an electronic tweezer. The Food and Drug Administration charged that the product carried a false and misleading label. The FDA therefor filed a seizure action. A seizure action is one taken to remove a product from commerce because it is in violation of the law. According to the Division of Compliance Operations, Bureau of Medical Devices, of the FDA, BIO 2,000 Inc. and BEA Cranford, Inc., from whom the Depillex was seized, subsequently defaulted. This seizure should encourage all of us who are interested in protecting the public from promoters of electronic tweezers who mislabel their product and make false claims of its effectiveness.

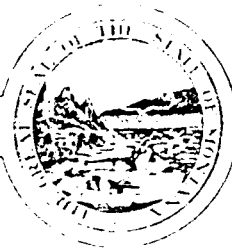
In addition it has come to my attention that two default judgments were levied against Sans Hair, Inc., a Michigan Depilatron Franchisee.

These two items show that both government and the consumer are beginning to understand the false and misleading claims which are being made by some persons on behalf of certain hair removal products. This gradual awakening of public opinion and governmental action is no doubt due to the tireless efforts of those all across the country who have sought to expose the false and misleading nature of the claims which have been made. We should all be spurred to redouble our efforts as a result.

share this information with any colleague who you think may be interested. The trial, the State of California against Depilatron, is continued and scheduled to start today, July 25th, 1978. Lack of courtroom space has been one of the main deterrents to scheduling.

Rose

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
FOOD AND CONSUMER SAFETY BUREAU



THOMAS J. BROWN, GOVERNOR

CAPITOL BUILDING

STATE OF MONTANA

406/449-2408

HELENA MONTANA 59601

November 25, 1980

Helen Arthur
The Electrolysis Clinic
600 Central Plaza #106
Great Falls, Montana 59401

Dear Ms. Arthur:

We have received your letter concerning the advertising of permanent hair removal machines. We have forwarded a copy of your letter to the Food and Drug Administration. They have a case pending in Federal Court. They cannot take action until after the outcome of the trial. Hopefully they will know the results in the near future.

Also, we are forwarding your letter to the Department of Business Regulations. They will assist in false and misleading advertising.

Could you obtain any printed materials claiming permanent hair removal? It would be helpful.

Certainly civil actions would be in order by the persons adversely affected by the false and misleading claims.

If we can help with any legislation you propose, please let us know.

Sincerely,

Cal Campbell, R.S., Supervisor
Food, Drug and Cosmetic Section
Food & Consumer Safety Bureau

CC/ns

cc: Charles Breen, Resident FDA Inspector, Helena
Jerry Wines, Business Regulations

January 14, 1981
600 Central Plaza #106
Great Falls, Montana 59401

Cal Campbell
Food, Drug, and Cosmetic Section
Food and Consumer Safety Bureau
Cogswell Building
Helena, Montana 59601

Dear Cal,

Thank you for your answer to my letter in regard to what can be done about operators of electronic tweezer machines advertising permanent hair removal.

I have been really busy getting information together, contacting legislators and keeping in touch with the other electrologists.

I am enclosing a copy of some of the advertising of the Nu-trolysis and Removatron machines and also several letters from the F.D.A. about those two specifically and also a letter or two from the Condesco Corporation. Andrea Hemstad is going to introduce our bill to change the definition of electrolysis back to the original, as permanent hair removal by the use of the electrified needle only as it is in California, and as it was here in Montana until two years ago.

She also planned to contact another representative to introduce a bill placing the tweezer machines under the state board of cosmetology.

I will let you know when the hearing is going to be and what the number of the bill is and it's context when the committee gets it into the proper wording.

As you can see, neither of these ads claims permanent hair removal, but when the customer calls or goes in they are told that it is indeed permanent. I know for a fact because I called both of them in December.

The girl who operates the Removatron machine told me 'we use radio waves...like micro waves'. I then wrote to Mr. Occhiogrosso to ask him to tell me what the difference is between radio waves and electricity, or does R.F. energy mean electricity as I was taught or does it mean mysterious radio waves, and not electricity as the man from Removatron told me. His answer is enclosed.

My questions about the ads are...what does EFFECTIVE mean? ONLY MEDICALLY PROVEN METHOD of WHAT? IS THERE SUCH A THING AS A LICENCED NU-TROLYSIST IN MONTANA? What does ALTERNATE mean? YOU notice they imply that the pain involved with electrolysis is from the needles, instead of the electric current...the Nu-trolysis ad is entered by a LICENCED ELECTROLOGIST who practiced electrolysis for years! Also I question how you can introduce enough electricity into the skin by ANY means enough to kill the hair root and still not feel it!

It is hard to get any of the persons involved to do anything in regard to the time and money they have lost because of embarrassment due to the problem of excess hair, plus who wants hubby to know they've wasted all that money? I will keep in touch. I will appreciate any effort you can make on behalf of both bills.

Sincerely,


Helen Arthur, R.E.

PAINLESS Hair Removal

Removatron

Safe and effective...

The alternative
method for the
removal of
unwanted hair.



- Staffed only by **trained technicians**.
- Free consultation — no obligation.
Come in for a 30-minute appointment,
and we'll give you an additional 15
minutes **free!**
(new patrons only, please)
- We promise . . . you won't feel pain
because Removatron uses no needles.

REMOVATRON HAIR REMOVAL CLINIC

1824 10th Ave. So.

GREAT FALLS, MT.

Suite #3

727-0022

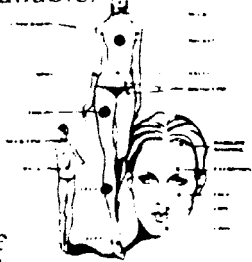
Want Ad No. 761-2406



LOOK YOUR HOLIDAY BEST!

Because even nature makes
mistakes...there's REMOVATRON...
the finest no-needle hair removal
system available.

*No Needles,
No Pain,
No Hair!*



The only safe &
effective alternate method for
the removal of unwanted hair.

REMOVATRON: Hair Clinic

1824 10th Ave. So.
Suite No. 3 Gt. Falls

727-0022

is
a government...
use he did not have...

NU-TROLYSIS



The Comfort-
able Approach
to Effective
hair Removal.

The only medically proven method.
Safe...no needles, no burning of the skin.
Two licensed Nu-Trolygists to serve you. Call
Leona or Linda at

Town & Country

BEAUTY SALON

761-4322 3320 10th Ave. So.

Eklur



Big Sky's pride

This \$1.3 million Swearingen Metroliner is Big Sky Airlines, pride and joy. It is the first of four Metroliners which will be delivered to the airline for commuter air service throughout eastern Montana, Wyoming and Idaho. Capt. Tommy Thompson is shown with the 17-passenger prop-jet after he landed at Great Falls International Airport on a regularly scheduled run. Thompson also is the airline's chief pilot. The aircraft cruises at 300 mph. The airline's second Metroliner will be delivered in September. (Tribune Photo)

WRECKER

1972 CHEV. C30 1-ton

Good tires. Low mileage. Power take-off operated winch. Adjustable boom and dollies & lights.

This unit is ready to be put to work.

\$2995

453-2491 or 917 Central Ave.

The Electrolysis Clinic

Permanent Hair Removal

Electrologists Do What!!

Many people in Montana confuse electrolysis with hair removal by means of electrified tweezers.

I would like to explain the difference as many ladies have been to my office who are very dis-satisfied after having a long period of treatment by what they assume is electrolysis.

With electrolysis the hair root is destroyed by applying high frequency current directly to the hair root by means of a minute surgical probe.

Tweezer machine promoters claim that electric current is conducted through the hair to the root by grasping the hair with electrified tweezers and applying radio-frequency current, thus destroying the hair root.

James Occhiogrosso, president of an electronics corporation has stated "The concept is erroneous!!" Human hair does not conduct electricity!!

Some states have banned this type of machine. California law prohibits electrologists from using them, and also requires promoters to refrain from using the words permanent OR painless.

Judging from what I have read in the past several years and from talking to people who have had this type of hair removed, I am inclined to agree with "Mr. Occhiogrosso's statement that the ... method is no more effective in achieving hair removal than a common tweezer."



In addition to the expense of this type of hair removal ... most hair that is tweezed will grow back darker and coarser.

Yes there is a great deal of difference! Electrolysis is still the only method for permanent removal of unwanted hair other than surgery.

For further information or appointment call Helen Arthur, 727-5163

The Electrolysis Clinic OF GREAT FALLS



ALBERT M. KLIGMAN, M.D., Ph. D.
HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA
38TH AND SPRUCE STREETS
PHILADELPHIA, PA. 19104

DEPARTMENT OF DERMATOLOGY

(215) 386-4399
(215) 386-4399
(215) 662-5261

18 November 1975

Mr. Jules Shapiro
328 North Fifth Street
Reading, Pennsylvania 19601

Dear Mr. Shapiro:

I shall summarize in this letter the observations which lead me to conclude that the claims made by Depilatron are false. The device is a hoax and I wish to have it entered in the record that I support efforts to have Depilatron exposed and discredited.

I. Examination of Epilated Hairs.

With the Kree electrolysis units the hair roots slide out of the follicle without effort. The entire bulb comes out.

With the Depilatron unit the hairs break off above the bulb; the viable portion of the hair matrix remains in situ.

The appearance of the hair roots is the same whether or not the current is turned on and whether or not the extraction is performed immediately or after 3 minutes of applied heat.

The morphology of the extracted hair is in no way distinguishable from that which is observable after manual epilation with an ordinary pair of tweezers.

Therefore, Depilatron does nothing more than break the hair shaft, leaving the matrix to generate another hair in due course.

II. Histologic Studies.

Six white males with hirsute forearms participated in these studies.

The hairs were epilated within a one-inch circle with the Depilatron on one side while a corresponding site on the

Mr. Jules Shapiro
328 North Fifth Street
Reading, Pennsylvania 19601
Page 2
18 December 1975

opposite side was epilated by Kree electrolysis.

Elliptical, full thickness specimens of skin were scalpel excised from the epilated areas. Histologic specimens were prepared by conventional techniques and examined under the light microscope.

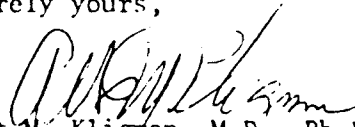
Following electrolysis, there is extensive coagulation necrosis of the entire basalar portion of the hair root. The papilla and hair bulb are completely destroyed. The subcutaneous tissue prolapses into the vacant space left by extirpation of the entire hair bulb. There is not any possibility that hairs can be regenerated from follicles which have been destroyed in this fashion.

The picture was entirely different with Depilatron epilation. In not a single follicle was there any evidence of destruction of viable tissue. The papilla was untouched and the supra-papillary portion of the bulb was intact. A variable portion of the external root sheath was removed, as expected after any form of manual extraction.

It is a certainty that hairs will regenerate from follicles in which the papilla and matrix survive.

I believe these observations do not allow for equivocal interpretations. The Depilatron apparatus cannot accomplish permanent epilation as does conventional electrolysis.

Sincerely yours,


Albert M. Kligman, M.D., Ph.D.
Professor of Dermatology

AMK/ajm

cc: Mr. Peter Artinian

CAMBRIDGE

ENGINEERING

12 December 1975

Mr. G. P. Artinian, Pres.
Kree International
152 W.42nd Street
New York, New York 10036

Dear Mr. Artinian,

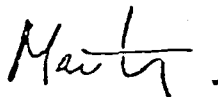
Jim Occhiogrosso recently sent me a copy of "Basic Simplified Depilitron DP-206 Theory." While the information contained in this report is essentially correct in its description of a basic capacitor and the ability of a transmitter, such as a TV station, to transmit over large distances to a TV set, it stops short of completing the analogy and misses the basic phenomena that renders the operation of this machine impossible.

Going on from their description of a TV station transmitting to a TV receiver, one can draw an analogy between a hair follicle in the skin and a tunnel through which automobiles drive. It is a well known fact that as you enter a tunnel, it becomes rapidly difficult to receive radio signals. You will also have noted that FM radio is better in this regard, however still does not work in a tunnel of any length. The problem is that the tunnel is small compared to the wave length of the radio signals involved. In the case of an AM radio station, the wavelength of the AM signals are on the order of about 1,000 feet, while the opening of the tunnel is about 20-30 feet. (a ratio of 50:1 - 33:1). In the case of FM, where some improvement is noted, wavelength is on the order of 10 feet. If, by analogy, we compare this to the problem of causing the radio energy to propagate down a hair follicle, we find we are faced with a wavelength of approximately 36 feet at the Depilatron frequency, and a hair follicle, or "tunnel opening" of approximately .005 inches. (a ratio of 7000:1) Noting the relative dimensions, it is not surprising that the energy which will not propagate any distance into a tunnel, with a ratio of 50:1, will also have difficulty in propagating down a very narrow and long (relatively speaking) hair follicle, with a ratio of 7000:1.

I realize that the theory of why radio waves will not propagate down into tunnels is fairly complex and not of interest, I thought it might interest you to realize that this situation is analagous to the Depilitron theory. Although a layman may not know why the energy does not travel down into a tunnel, he certainly is aware of the effects.

I am sorry that I was unable to attend the news conference, and look forward to meeting you at some date in the future.

God keep you,



Martin Carl Poppe, Jr.

MCPjr:lp



EDMUND G. BROWN JR.
Governor
RICHARD B. SPOHN
Director

THE COSMETOLOGY ACT

(Chapter 10 of Division 3 of the Business and Professions Code)

Including amendments effective on or before
JANUARY 1, 1980

also excerpts from

General Provisions of the Business and Professions Code
and the Government Code



Issued by

BOARD OF COSMETOLOGY

RUSSELL C. SALAZAR, *Executive Secretary*

1020 N Street

Sacramento, California 95814

Junior Operator License

7334 A licensed junior operator may engage in any one occupation of a cosmetologist upon a patron who is paying for service or materials, under the immediate supervision of a licensed cosmetologist in a licensed cosmetological establishment only after he has had 350 hours of instruction.

The license of a junior operator shall expire upon the expiration of three years from the date such license was issued, or on the date his license as a cosmetologist is issued, or on the date the results of his second examination are issued, if he fails such examination, whichever first occurs.

Article 3.5. Practice of Electrology

Electrology/Thermology

7339 "Electrology" as used in this chapter includes electrolysis and/or thermolysis.

Electrologist, Definition of

7340 An electrologist is any person who removes hair from, or destroys hair on, the human body by the use of an electric needle only.

Junior Electrologist, Definition of

7341 A junior electrologist is any person who is engaged in learning or acquiring a knowledge of the practice of electrolysis in a licensed cosmetological establishment under a licensed electrologist.

Electrologist Examination Qualifications

7342 The board shall admit to examination for a certificate of registration and license as an electrologist, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

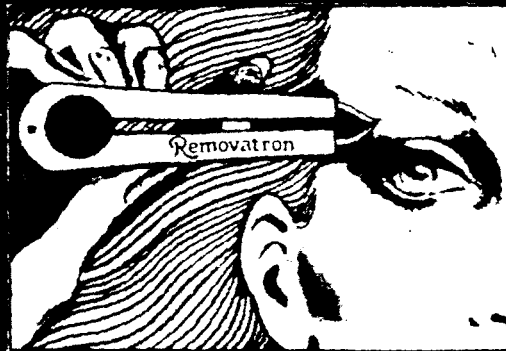
- (a) Who is not less than 17 years of age.
- (b) Who has not committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Who has completed the 12th grade, or an accredited senior high school, in public schools of this state or its equivalent.
- (d) Who has had any one of the following:
 - (1) Practical training of 500 hours in a licensed school in which the practice is taught.
 - (2) Instruction, training and practice as a junior electrologist for a period of not less than 12 months, in a licensed cosmetological establishment, under a licensed electrologist.
 - (3) Holds a valid electrology license issued by a state whose licensing requirements are equal to or greater than California.
 - (4) Either training or practice, or a combination of training and practice, outside of this state in electrology for such period as may be specified by rules of the board.

Junior Electrologist Qualifications

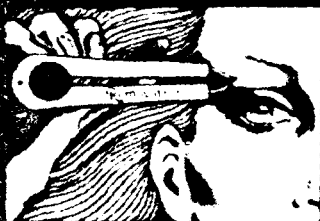
7343 Every person applying to the board for a license as a junior electrologist upon the proper application form accompanied by two

BECAUSE EVEN NATURE
MAKES MISTAKES

Removatron



The Painless Way
of Effective Hair Removal



Removatron

by Removatron International
215 A Street
Boston, Massachusetts 02210

Printed in U.S.A.

REMOVATRON HAIRREMOVAL CLINIC
SUITE 3 - 1824 10th AVE. S
GREAT FALLS, MONTANA 59405
PHONE 406 727-0022

Questions and Answers
About Your Unwanted Hair

Did you know? *Unwanted Hair is a problem almost all women share.* It's a fact! Statistics show that 85-90% of all women have some facial or body hair they would look and feel better without. The Removatron method is a beautiful solution to this embarrassing cosmetic problem. It lets you say goodbye to temporary, messy creams or useless shaving, plucking, bleaching, and waxing. And you can forget about "needle ouch" forever. Removatron uses NO NEEDLES! It's both effective and painless, can be used on even your most sensitive body areas, and lets you apply make-up right after treatment. It's what you've been waiting for, but never had until now — **SAFE, EFFECTIVE, PAINLESS HAIR REMOVAL.** Removatron. It works, but it doesn't hurt!

Radio Frequency Energy is transmitted from the machine and channeled through the electronic tweezers. It follows the hair shaft down through the hair follicle, coagulates (dries) and destroys the papilla (root bulb), which is the source of nourishment for the hair. In just seconds, the unwanted hair slides right out — root and all.

NO. It is a low-grade, drying-type energy, directed only to the root of the hair. It will not travel any further. This is the same medically approved R.F.E. that has been used for the past twenty-five years in electrology treatments.

YES. But not the first time. Permanent hair removal is seldom accomplished in a single treatment due to the individual chemical make-up of each person and to the many factors involved in hair growth.

NO. You won't feel a thing! Removatron's exclusively insulated tweezers gently grasp the hair above the skin line and removes the hair — root and all. Nothing ever touches the skin!

There is no way your Removatron specialist or any doctor can tell you since they cannot see beneath the surface of your skin. Only the hairs visible above the

skin can be removed. You **DO** have approximately 1,000 hairs per square inch on your body which are not surfacing above the skin at the same time since they grow in a 90-day cycle. But within a short period of time you will definitely notice that an appreciable amount of unwanted hair is not coming back.

Since there are factors such as emotional stress, hormonal, or chemical changes that may interfere with your treatments; and since your unique chemical make-up is not known, there is no way of knowing the exact length of time. But be **ASSURED** that the treatments will decrease as quickly as possible. The hour treatments will diminish to 45 minutes, then to 30 minutes, and eventually to 15 minutes.

Since maximum results for treatments are achieved when hair first appears above the skin (this is when the roots are weakest and most vulnerable), appointments are scheduled on a weekly basis.

Once the papilla has been coagulated and terminated, there is NO way another hair can grow out of that same follicle. But the same hair will have to be treated more than once if it is weak and breaks off below the skin line, or if it is already detached from the papilla as in the shedding process.

NO. This interferes with treatments. You should use only scissors and cut the hair as close to the skin as possible.

NO. It is a localized heat which goes only to the papilla attached to the hair being worked on. The heat travels NO further.

There are three rates available — one hour, half hour, and fifteen minutes. It is the most important thing a woman can do for herself. Remember, you are not buying an hour or a half-hour of time. You are buying the end result — **a skin free of hair for the rest of your your life.**

December 9, 1980
600 Central Plaza #106
Great Falls, Montana
50401

Mr. James Occhiogrosso ,President
Condesco Corporation
11 Spruce Circle
Farmingville, New York

Dear Mr. Occhiogrosso,

I am a Discended electrologist, and I was very interested in your letter to Mr. G. Artinian , Oct. 15, 1975 in which you discussed the Depilitron tweezer machine.

You made the statement that 'human hair does not conduct electricity.'

I have been involved in trying to get the tweezer machines out of our field of electrolysis..and have quoted your statement in regard to that fact.

However, the Removatron representative from back east somewhere called me about two months ago to criticise me for knocking the tweezer machines and he had apparently been sent my ad which quoted you. He made an interesting statement about you and I quote "Mr. Occhiogrosso must have beans between his ears."

He said "we don't use electricity, we use radio frequency energy, or radio waves." He said that the hair is used as an insulator to transfer the radio waves.

I called the Removatron operator here and she said "we use radio waves...like micro waves , and they only go to the end of the hair. She stated that the vibrations of the radio waves against the moisture in the skin causes heat and destroys the hair root.

I am wondering if you have any more information on this type of machine and could you explain the difference between radio frequency energy, and electricity, if there is any?

I would appreciate hearing from you, and I sincerely hope that he was wrong about the beans!

Cordially yours,

Helen Arthur R.E.

CONDESCO CORPORATION

755 WAVERLY AVENUE, HOLTSVILLE, NEW YORK 11742 (516) 475-5510

January 5, 1981

Helen Arthur
600 Central Plaza # 106
Great Falls, Montana 50401

Dear Ms Arthur:

I received your letter a while ago and I apologize for the delay in answering.

To give you a full explanation of the reasons why a tweezer machine is ineffective towards permanent removal of unwanted hair would be extremely technical, and would require much more time than that available to me at the moment.

However, you might well tell your "Removatron" representative that if he is "using radio waves--like micro waves" with the hair as an insulator for the transferral of the energy, he has accomplished the violation of all the known laws of electrical energy transfer. It is conceivable that a human hair can transfer energy from a tweezer down into a hair follicle, but, the frequency at which such a machine would have to operate, and the required power levels would be extremely difficult to obtain and would be hazardous to human life.

In essence the size and construction of a human hair and its associated follicle, preclude the possibility of the transferral of sufficient energy to do any damage to the growth cells, at the frequencies and power levels at which electrolysis machines are permitted to operate.

If you would like to go into the technical reasons why the tweezer method cannot be effective, I suggest you contact the Kree organization and request copies of some of the independent studies that have been performed, over and above my analysis. You might be very interested in the report from Hofstra University in which the actual results of a comparison test between tweezer and needle machines on human subjects, was analyzed.

The mode of operation of all those who perpetrate a "hoax" on the public is essentially the same, and that is: to take a true or well known fact, and distort it to make it believable in their desired application. The tweezer machine promoters are using the fact that



Consultants in Electronic Engineering and Packaging

CONDESCO CORPORATION

755 WAVERLY AVENUE, HOLTSVILLE, NEW YORK 11742 (516) 475 5510

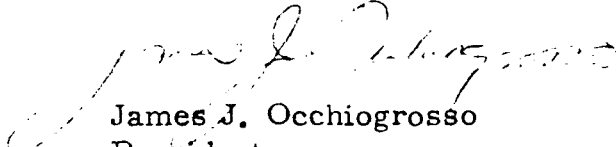
Page # 2

electrical energy can indeed be passed from one point to another by traveling along the surface of a normally non-conductive element, but, what they neglect to tell you is that the physical dimensions and characteristics of human hair make this effect impossible to obtain,

To illustrate this point, I cite the following example:

Our society today puts considerable emphasis on a woman's breasts, with the implication that a shortage of feminine hormones causes small sized breasts. Manufacturer's of breast enlargement creams advertise and sell from many magazines, implying that their product has the "proper" hormonal content to overcome this problem". What they neglect to mention is that a woman's breast size is genetically inherited, and virtually nothing, short of surgery, can change that fact. But----- they sell a lot of cream!!!

Very truly yours,


James J. Occhiogrosso
President



Consultants in Electronic Engineering and Packaging

CONDESCO CORPORATION

11 SPRUCE CIRCLE, FARMINGVILLE, NEW YORK 11738 (516) 698-7000

Oct. 15, 1975

Mr. G.P. Artinian
Kree International
152 W. 42nd Street
New York, N.Y. 10036

Dear Mr. Artinian:

Attached is a technical report detailing the concepts and parameters upon which I have based my conclusions regarding the Dipilitron method of hair removal.

It is an unchallengable fact that to achieve permanent removal of unwanted hair, the growth cells associated with the hair must be destroyed, or significantly damaged.

Observing the Dipilitron method in operation, I note that the concept of this machine is to apply Radio Frequency (RF) energy directly to the unwanted hair shaft.

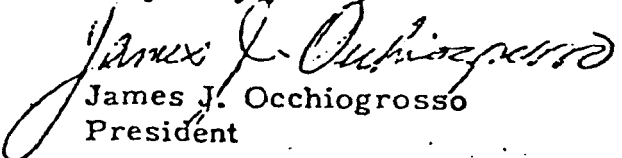
This concept is erroneous! Human hair does not conduct electricity! Thus, since the Dipilitron machine is in contact only with the hair itself, no energy is applied to the growth cells, and consequently, these cells are not damaged or destroyed.

Expecting to effect permanent hair removal in this manner, is analogous to expecting an electrical appliance to function without being plugged in!

The basic philosophy that the hair shaft will capacitively or directly conduct the RF energy to the lower extreme of the hair shaft, is totally incompatible with known laws of energy transfer.

It is my conclusion, based on the attached study, that the Dipilitron method is no more effective in achieving hair removal, than a common tweezer.

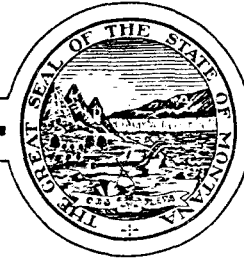
Very truly yours,


James J. Occhiogrosso
President



Consultants in Electronic Engineering and Packaging

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
LEGAL DIVISION



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

(406) 449-2630

HELENA, MONTANA 59620

March 20, 1981

Senate Public Health Committee
47th Legislature (1981 Session)
Capitol Building
Helena, MT 59620

Re: House Bill 794

Dear Senator:

Your committee on Wednesday, March 18, 1981, heard testimony on House Bill 794, proposed amendments to the Montana Clean Indoor Air Act, Title 50, Chapter 40, MCA, sponsored by Representative Ellerd. I was requested to respond to the question of who would be subject to the proposed misdemeanor sanction when a person was found to be smoking in a posted non-smoking area, the individual smoking or the proprietor? I should not have attempted to answer the question without referring to the complete Act. As a result, I believe my answer was incorrect and confusing.

The existing Montana Clean Indoor Air Act and the proposed amendments place no direct requirements or prohibitions on the individual smoker. A person who desires to smoke may do so in an area posted as "No Smoking" pursuant to this Act without being subjected to the penalties of this Act. This is not to say that a smoker may be subject to sanctions if he smokes in areas posted "No Smoking" which are under the jurisdiction of the State fire marshall such as near gasoline pumps and storage tanks.

An affirmative duty under the Montana Clean Indoor Act is only placed upon the proprietor or manager of an establishment defined in the Act to indicate by posting a sign whether or not provisions have been made for non-smokers in the building under his control. It is my opinion that if someone were to smoke in an area designated "No Smoking" or "Reserved for Non-Smokers Only", pursuant to this Act, neither the smoker nor the proprietor would be subject to the proposed \$25 fine. The only person subject to a fine would be a manager or proprietor who did not post one of the signs required by Section 50-40-104, or Section 50-40-105, MCA.

March 18, 1981

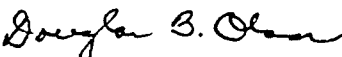
Senate Public Health Committee

Corrected
Proposed Amendments to HB 794 Offered by the
Department of Health and Environmental Sciences

1. Amend title
Title, line 8
following: "50-40-103"
Strike: "7 AND"
Insert: ", ""
2. Amend title
Title, line 8
following: "50-40-104"
Insert: ", AND 50-40-108"
3. Page 3, line 3
Insert: "(3). THE PROPRIETOR OR MANAGER OF AN ESTABLISHMENT
CONTAINING BOTH A RESTAURANT AND A TAVERN, IN WHICH
SOME PATRONS CHOOSE TO EAT THEIR MEALS IN THE TAVERN,
IS NOT REQUIRED BY THIS PART TO POST A SIGN DESCRIBED
IN SUBSECTION (2) IN THE TAVERN AREA OF THE ESTABLISHMENT."
4. Page 4, line 14
Insert: Section 3. Section 50-40-108, MCA, is amended to read:
"50-40-108. Enforcement. ~~The provisions of this part~~
~~shall be supervised and enforced by the local boards of~~
~~health under the direction of the department.~~ THE CITY
ATTORNEY OR COUNTY ATTORNEY IN WHOSE JURISDICTION A
VIOLATION OF THIS PART IS ALLEGED TO HAVE OCCURRED OR
THE ATTORNEY GENERAL SHALL FILE A COMPLAINT IN THE
APPROPRIATE COURT FOR AN INJUNCTION, A CRIMINAL PENALTY
AS PROVIDED IN [SECTION 4], OR BOTH UPON RECEIPT OF AN
AFFIDAVIT OF AN OFFICIAL OF THE DEPARTMENT OR LOCAL
HEALTH DEPARTMENT, OR ANY PERSON ALLEGING A VIOLATION
OF THIS PART.

I apologize for any confusion I may have caused and I am available for any additional questions you may have on the Montana Clean Indoor Air Act. As I stated at the hearing, our Department is not advocating a specific sanction for violation of the Act. Our interest is that Section 50-40-108, MCA, relating to enforcement, be clarified to reflect the relationship between the Department and local health departments and boards relative to enforcement and to clearly articulate in the statute that it is and always has been the responsibility of elected public officials such as the city attorney, county attorney and attorney general to enforce laws which provide for criminal penalties. Thank you.

Sincerely,


Douglas B. Olson
Counsel for Department

DBO:mac

(c) vehicles or rooms seating six or fewer members of the public.
History: Ia Sec. 5, Ch. 304, L. 1979.

50-40-108. Enforcement. The provisions of this part shall be supervised and enforced by the local boards of health under the direction of the department.
History: Ia Sec. 8, Ch. 304, L. 1979.

(3) "Establishment" means an enterprise under one roof that serves the public, and for which a single person, agency, corporation, or legal entity is responsible.
(4) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette, pipe, or any smokable product.
(5) "Working area" means an enclosed room where more than one employee works.
History: Ia Sec. 3, Ch. 304, L. 1979.

50-40-101. Designation or reservation of smoking or nonsmoking areas. (1) Except for those enclosed public places provided for in 50-40-105, the proprietor or manager of an enclosed public place shall:
(a) designate nonsmoking areas with easily readable signs, or
(b) reserve a part of the public place for nonsmokers and post easily readable signs designating a smoking area, or
(c) designate the entire area as a smoking area.
(2) The proprietor or manager of an establishment containing enclosed public places shall post a sign in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily read and understood, whether or not areas within the establishment have been reserved for nonsmokers.
History: Ia Sec. 4, Ch. 304, L. 1979.

50-40-105. No smoking signs in certain places. No smoking signs shall be conspicuously posted in elevators, museums, galleries, kitchens, and libraries of any establishment doing business with the general public.
History: Ia Sec. 5, Ch. 304, L. 1979.

50-40-106. Requirements of health care facilities. (1) Health care facilities shall:
(a) ask all inpatients, prior to admission, to designate their preference for a nonsmoking or smoking patient room and, when possible, accommodate such a preference;
(b) prohibit smoking in all kitchens, laboratories, and corridors;
(c) prohibit smoking in storage areas for supplies or materials and wherever flammable liquids, gases, or oxygen is stored or in use;
(d) provide a nonsmoking area in all waiting rooms;
(e) prohibit employees from smoking in patient rooms and
(f) require visitors to obtain express approval from all patients in the patient room, or from the patients' physicians, prior to smoking.
(2) Nothing in this section shall prohibit a health care facility from having a designated smoking area.
(3) All areas of a health care facility not specifically referred to in this section may be considered smoking areas unless posted otherwise.
History: Ia Sec. 6, Ch. 304, L. 1979.

50-40-107. Exemptions. The following shall be exempt from this part:
(a) restaurants;
(b) taverns or bars where meals are not served.

EXISTING LAW
CHRONIC 48
SMOKING IN PUBLIC PLACES

Part 1 - Montana Clean Indoor Air Act

- Section
- 50-40-101. Short title
- 50-40-102. Purpose
- 50-40-103. Definitions
- 50-40-104. Designation or reservation of smoking or nonsmoking areas - smoke
- 50-40-105. No smoking signs in certain places
- 50-40-106. Requirements of health care facilities
- 50-40-107. Exemptions
- 50-40-108. Enforcement

Part 1

Montana Clean Indoor Air Act

50-40-101. Short title. This part may be cited as the "Montana Clean Indoor Air Act of 1979".
History: Ia Sec. 1, Ch. 304, L. 1979.

Comptroller's Comment:
See 50-40-101, 50-40-102, 50-40-103, 50-40-104, 50-40-105, 50-40-106, 50-40-107, 50-40-108.

50-40-102. Purpose. The purpose of this part is to protect the health of nonsmokers in public places and to provide for reserved areas in some public places for those who choose to smoke.
History: Ia Sec. 2, Ch. 304, L. 1979.

50-40-103. Definitions. As used in this part, the following definitions apply:
(1) "Department" means the department of health and environmental services provided for in Title 2, Chapter 15, part 21.
(2) "Enclosed public place" means any indoor work, room, or vehicle used by the general public or serving as a place of work, including but not limited to restaurants, stores, offices, trains, buses, educational or health care facilities, auditoriums, arenas, and assembly and meeting rooms.

STANDING COMMITTEE REPORT

..... 19.....
Journal

MR.

We, your committee on

having had under consideration Bill No.

Respectfully report as follows: That Bill No.

1. Page 1, line 15.
 Following: "in"
 Strike: "their"
 Insert: "the"

2. Page 2, line 18.
 Following: "duties"
 Strike: ", "
 Insert: "and"

3. Page 4, line 6.
 Following: "food"
 Insert: ", "

4. Page 4, line 8.
 Following: "by"
 Insert: "The"

MARCH 19 81

PUBLIC HEALTH
STATEMENT OF INTENT
HOUSE BILL 80

5. Page 4, line 16.

Following: "in"

Strike: "MCA"

Following: " _____ "

Insert: "MCA" _____