

## HOUSE BUSINESS AND INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on January 17, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present.

### HOUSE BILL 80

REP. KEN NORDTVEDT, District 77, sponsor, opened by saying he was requested by the Department of Revenue to sponsor this bill. The fact that airlines and railroads are allowed to sell alcohol and chartered buses are not seemed to be discriminatory. He said people don't realize they are breaking the law when they drink on buses; this bill would make it legal. He pointed out that it might be safer to allow people to drink on a chartered bus than to carpool to some event, while drinking, and be a hazard to themselves and others.

#### PROPOSERS:

ELLEN FEAVER, Department of Revenue, said her department is asked why airlines are allowed to sell alcohol but buses are not. This bill is an attempt to rectify that.

OPPOSERS: none

#### QUESTIONS:

REP. FAGG: How would this bill prevent a bus from staying in one town for several days, at the same time serving alcohol?

Nordtvedt: Special permits would have to be issued for that.

REP. FAGG: Wouldn't that be a way of getting around city ordinances?

PHIL STROPE, Montana Tavern Association, said that authority would have to be received to be a common carrier from the Public Service Commission and it would be unlikely that they would go to a community for a one night stand when regular routes and times were posted.

REP. ELLERD: Isn't wine considered a liquor? Feaver: Liquor doesn't necessarily mean wine. At the Revenue Oversight Committee meeting there was a lot of discussion about taxicabs, and they have been excluded.

REP. KITSELMAN: In Billings we have a limosine service. I think they would like to serve liquor for certain festive events. Are they considered a taxicab?

BILL OPITZ, Executive Director, Public Service Commission, said limosines would primarily fall under a taxicab type authority. It's a Class B Certificate with irregular times and fees.

REP. PAVLOVICH: What if we put in "all-beverage?" I imagine they are going to have wine. Feaver: We have added "alcoholic beverage" so it will include beer, wine and liquor.

REP. HARPER: Subsection 3 seems to have fairly broad definition. Any private bus that is hired would be eligible to serve these things. Would the boat at the Gates to the Mountains or a large private boat on Flathead Lake get a license to be a floating tavern? Feaver: Licenses are intended for very specific reasons. People can get permits. We have to regulate the use of all licenses. Similarly, we would have to regulate the issuance of these licenses.

REP. HARPER: You have changed the name of the license from a retail beer and wine license to a passenger carrier license? Feaver: Yes.

REP. METCALF: Does that include wine in that license? Feaver: Yes.

REP. FAGG: There will be all sorts of problems with enforcing this bill. Maybe we should put in "while moving or in transit." Feaver: That would be fine.

EXECUTIVE SESSION:            HOUSE BILL 80

REP. KITSELMAN: Moved that the bill DO PASS and offered the following amendment: On Line 25 following buses insert Limosine. He so moved.

REP. HARPER: Once the limosine is outside the city limits, he can have a beer, right? REP. PAVLOVICH: Yes.

REP. HARPER: Are you intending to legalize consumption of alcohol in a vehicle inside the city limits? REP. KITSELMAN: The city ordinance would have precedence. REP. BUCHINI: If you put it in limosines, I think taxicabs could come back and say they should have the same thing. REP. FABREGA: We need a definition between limosine and taxicab. BILL OPITZ: Limosine is the generic term for taxicab. REP. METCALF: I think the intent of this bill is really to provide a service for long distances. REP. PAVLOVICH: The answer is probably to raise the fare and serve what you want free. REP. KITSELMAN: I withdraw the amendment.

REP. HARPER: I would like to put in an amendment on Page 1, line 13, following "may" insert "while in transit". So moved.

REP. ELLERD: Will the bus company be selling liquor? REP.

METCALF: They will be granted a license that will permit them to sell alcohol.

REP. ELLERD: Question on the amendment.

Thirteen voted Yes - Six voted No, they being Rep. Pavlovich, Rep. Bachini, Rep. Hansen, Rep. Jensen, Rep. Ellerd and Rep. Ellison.

REP. FAGG moved that HOUSE BILL 80 DO NOT PASS.

REP. PAVLOVICH: If I charter a bus and have liquor, am I breaking the law? REP. METCALF: You would have to go with the regulations of the county you are in.

Question posed by Rep. Harper. A unanimous vote that HOUSE BILL 80 DO NOT PASS.

EXECUTIVE SESSION:

HOUSE BILL 69

REP. ELLISON: Moved that HOUSE BILL 69 DO NOT PASS.

REP. HARPER: Moved to amend the bill as per the proposed amendments to HB 69. (Exhibit #1)

REP. METCALF: The amendment is so if there were many complaints in a certain amount of time, controls could be reestablished at the wholesale and retail level.

REP. LYBECK: Rep. Hannah had serious doubts about the outcome of this bill and I believe he wouldn't have amended it if there had been more proponents to the bill. I am against the whole bill and particularly the amendment.

REP. HARPER: Rep. Hannah is going to bring this on the floor and we may as well put the amendment on the bill now to save time.

Question posed: Passed with Rep. Ellerd and Rep. Lybeck voting no.

REP. FABREGA: In the past I have supported decontrol. I now believe the real purpose of this bill is to stabilize the price of milk for the producer. I am in favor of it.

REP. ELLISON: There weren't any consumers at the hearing testifying for this bill.

REP. SCHULTZ: The milk industry in Montana is dying even with controls. We may not even be able to maintain the industry we now have. We need to help as much as possible.

REP. KITSELMAN: My calls from constituents indicated they did want to protect the dairymen but they are tired of paying high prices for milk. Let's give decontrol a chance and see what happens when we decontrol at the retail level.

REP. HANSEN: We have no idea what would happen if it were to be decontrolled. It's been controlled for 30 years.

REP. WALLIN: We have a steady supply of milk in Montana. If we decontrol the producers have no guarantee that there will be anyone to buy their product. Why disturb the process that is working well?

REP. JENSEN: Mr. Kelly said at the hearing that if we decontrol many small businessmen would be out of business - it would eliminate one fourth of our dairymen.

REP. HART: The distributors take it to small towns now, if we decontrol the small towns would be without service at all.

REP. METCALF: I carried this bill in the past. I would like to explain why I now support controls. The price of milk then was increasing much faster than the rate of inflation. The Milk Control Board had a formula that consisted of seven factors and some of those factors weren't related primarily to Montana. After the pressure we put on them because of my two bills they took a look at the formula and they eliminated two of the factors. As a result of that the increases in the price of milk have not been kicking in every month and now the rate of increase in the price of milk is far below the rate of inflation. I feel the

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Business & Industry Committee

price controls are working in this state now and I don't see any need to decontrol at this time.

REP. LYBECK: Montana will always have a supply of milk - we can always get it from Washington. What we need to think about is if we want to preserve 1500 to 2500 jobs that are now involved in the dairy industry in the State or should we take a chance with decontrol for cheaper milk. REP. METCALF: It's all speculation.

REP. FABREGA: Who do you want to pay, the trucker or the dairy farmer? Once you lose the industry it's pretty hard to get any one to take a chance and go back into it.

REP. FAGG: I am realizing I am a bit of a libertarian. I have never seen a decontrolled business that didn't work better than a controlled one. I see no reason to control anything. We should not have controls on liquor and I think it's wrong to have the government step in to tell a person how to run a business. Nobody protects my business. The government is keeping the price up for the consumer. I am against controls.

REP. HARPER: I would like to say a word about the work of Al Dougherty and for the fine work he always did on this issue. He just kept me totally confused on this issue, as I still am.

REP. HANSEN: I am in favor of decontrol. Milk has been controlled for more than 30 years and it was the reason I was put out of business with my creamery.

REP. SCHULTZ: I would like to qualify my statement. I said they were going out of business in spite of the regulations; what I'm saying is that it doesn't keep people in business just because it's regulated.

Question posed by Rep. Fagg. The motion that HOUSE BILL 80 DO NOT PASS AS AMENDED passed 15 to 4. (Roll Call Vote Attached)

The meeting adjourned at 10:05 a.m.

  
JERRY METCALF, CHAIRMAN

  
Linda Palmer, Secretary

# STANDING COMMITTEE REPORT

January 17

19 83

Speaker:

MR. ....

We, your committee on ..... **Business & Industry** .....

having had under consideration ..... **House** ..... Bill No. **69** .....

**A BILL FOR AN ACT ENTITLED: "AN ACT TO DECONTROL MILK PRICES AT THE WHOLESALE AND RETAIL LEVELS; AMENDING SECTIONS 81-23-101 THROUGH 81-23-103, 81-23-202, 81-23-302, AND 81-23-303, MCA; AND REPEALING SECTION 81-23-301, MCA."**

Respectfully report as follows: That ..... **House** ..... Bill No. **69** .....

**AMENDMENT HOUSE BILL 69, introduced bill (white)**

1. Title, line 5  
Following: "LEVELS"  
Insert: "; providing a procedure for emergency price controls"
2. Page 19, line 12.  
Following: line 11  
Insert: "Section 7. Emergency price controls -- procedure. (1)  
If the board receives a petition signed by 51% of the licensees, and a petition signed by at least 250 consumers, alleging that the milk prices set for producers or market conditions are such that an emergency situation has been created in that the public is not insured of a regular, continuous, and adequate supply of milk it shall take the actions prescribed in (2).  
(2) Upon receipt of the petitions the board shall hold a hearing on the matter. If the board determines that the alleged emergency exists it may adopt emergency price control

~~DO NOT PASS~~

~~DO NOT PASS AS AMENDED~~

upon all licensees as it determines necessary, including prices for wholesale and retail levels.

(3) Prices set pursuant to (2) shall be published in the Administrative Rules of Montana. The prices set pursuant to (2) shall terminate 1 year after the date of issuance unless terminated earlier by order of the board."

Renumber; subsequent sections.

3. Page 19, line 21.

Following: line 20

Insert: "Section 10. Codification instruction. [Section 7] is intended to be codified as an integral part of title 81, chapter 23, and the provisions of title 81, chapter 23 apply to [section 7]."

AND AS AMENDED  
DO NOT PASS

# STANDING COMMITTEE REPORT

January 17

19 83

MR. **Speaker**

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration **HOUSE**

Bill No. **80**

**A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
SERVICE OF ALCOHOLIC BEVERAGES ON COMMON CARRIERS IN  
MONTANA; DEFINING "COMMON CARRIERS"; AMENDING SECTION  
16-4-302, MCA."**

Respectfully report as follows: That **HOUSE**

Bill No. **80**

**AMENDMENT HOUSE BILL 80, introduced bill**

**1. Page 1, line 13**

**Following: "may"**

**Insert: "while in transit"**

~~XXXXXX~~

**DO NOT PASS AS AMENDED**

HB 69

1-17-83

Date: NOT  
No: DO PASS

	Date: No:	Date: No:	Date: No:	Date: No:	Date: No:	Date: No:
METCALF, Jerry	yes					
PAVLOVICH, Robert	yes					
BACHINI, Robert	yes					
ELLERD, Bob	yes					
ELLISON, Orval	yes					
FABREGA, Jay	yes					
FAGG, Harrison	no					
HANSEN, Stella Jean	no					
HARPER, Hal	no					
HART, Marjorie	yes					
HOWE, Ramona	yes					
JENSEN, William	yes					
KADAS, Mike	yes					
KITSELMAN, Les	no					
LYBECK, Ray	yes					
NISBET, Gerald	yes					
BAUNDERS, Glenn	yes					

(cont.)

15-4  
DO NOT PASS





Proposed amendment to HB 69

1. Page 19, line 12.

Following: line 11

~~Insert:~~ "Section 7. Emergency price controls -- procedure. (1)  
If the board receives a petition signed by 51% of the  
licensees, and a petition signed by at least 250 consumers,  
alleging that the milk prices set for producers or market  
conditions are such that an emergency situation has been  
created in that the public is not insured of a regular,  
continuous, and adequate supply of milk *it shall take the actions prescribed in (2).*

(2) Upon receipt of the petitions the board shall hold a  
hearing on the matter. If the board determines that the  
alleged emergency exists it may adopt emergency price controls  
upon all licensees as it determines necessary, including prices  
for wholesale and retail levels.

(3) Prices set pursuant to (2) shall be published in the  
Administrative Rules of Montana. The prices set pursuant to  
(2) shall terminate 1 year after the date of issuance unless  
terminated earlier by order of the board."

Renumber: subsequent sections.

2. Page 19, line 21.

Following: line 20

Insert: "Section 10. Codification instruction. [Section 7] is  
intended to be codified as an integral part of title 81,  
chapter 23, and the provisions of title 81, chapter 23 apply to  
[section 7].

STANDBY REGULATORY AUTHORITY IN OTHER STATES

States which have statutory authority to set wholesale or retail prices but do not.\*

<u>State</u>	<u>Regulatory Agency</u>	<u>Year Discontinued</u>	<u>Type of Price Regulation</u>
Alabama	Dairy Commission	1979	W, R
New Jersey	Division of Dairy Industry	1980	W, R
North Carolina	Milk Commission	1970	W, R
South Carolina	Dairy Commission	1979	W
Vermont	Milk Control Board	1979	W, R
Virginia	Milk Commission	1979	W, R
Wyoming	Board of Agriculture	1980	W

\*Nevada has authority to set wholesale and retail prices. Currently they set only retail prices. According to their administrator, this is because wholesale price determination is difficult. Retail pricing is used to prevent sales below cost (few retailers sell at the minimum). Minimum retail price is about \$1.00 per half gallon.

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States with emergency authority to set wholesale and retail prices.

California	Their process requires the Director of the Department of Food and Agriculture to declare an emergency. This declaration must be subsequent to a hearing and is only effective for 90 days. Subsequent 90-day extensions require rehearing. The process has not been used.
Massachusetts	Twenty-five percent of the producers must petition for controls. The Milk Control Commission may set prices after investigation, notice, and hearing. The process has never been used.
Rhode Island	Requires a petition by 51% of the producers, processors, and licensees plus a petition by 250 consumers. After a hearing, the Milk Board may set prices. The process has not been used.

COMPARISON OF MONTANA WITH SURROUNDING STATES

<u>State</u>	<u>Number of Producers</u>	<u>Grade A Production (pounds)</u>	<u>Net Import or Export</u>	<u>Number of Grade A Processing Plants</u>	<u>Population per Square Mile</u>
South Dakota	750	525 million	Exporter	5	9.1
Idaho	550	1.6 billion	Exporter	16*	11.0
Wyoming	90	90 million	Importer	6	<u>4.6</u>
Montana	300	290 million	Exporter	12	5.4

\*Only 8 of these are large plants which qualify to ship interstate.

SUMMARY OF HOUSE BILL 80 - INTRODUCED BY REPRESENTATIVE  
NORDVEDT BY REQUEST OF REVENUE OVERSIGHT COMMITTEE

This bill amends Montana law to increase the types of common carriers of passengers (by airplane, railroad, bus or boat, but not taxicabs) that may serve alcoholic beverages to passengers in the state.

Passenger carrier licenses will be issued for a year expiring on June 30th.

This bill adds buses and boats to the common carriers that may qualify for licenses to sell alcoholic beverages. The bill also provides that a carrier will get a passenger carrier license rather than the regular retail beer and liquor license.

# VISITORS' REGISTER

HOUSE

B & F

COMMITTEE

BILL

HB 80

Date \_\_\_\_\_

1-17-83

SPONSOR

Nordturd

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.