

## HOUSE BUSINESS AND INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on January 24, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present.

### HOUSE BILL 249

REP. WALTER SALES, District 79, sponsor, opened by saying this bill would repeal an entire section of Montana codes. There is \$300,000 in owner's tax that would be involved. He said this tax is unfair as the owner receives no service for the tax and there are no inspections involved with the license. The amount of revenue generated is not that much, he said, and if the state does need more revenue, there are a lot more honest ways to get it.

#### PROPOSERS:

LLOYD CRIPPEN, National Federation of Independent Businesses, said 67% of his members pay this tax, and receive no benefit from the state for it.

JENELLE FALLEN, Montana Chamber of Commerce, stated the state does not effectively enforce this law and it affects retail businesses and no one else in the community. The state is looking hard to streamline its laws and this is a good place to start, she said.

#### OPPOSERS:

JOHN CLARK, Department of Revenue, said he was present to submit soft opposition to this bill in that there would be a loss of \$300,000 to the Revenue Department if it passes. He said it was administered at a very low cost and the return was 95%.

REP. SALES, in closing, said if a tax is levied without any benefit going to the taxpayer, then it should be eliminated.

#### QUESTIONS:

REP. LYBECK: Mr. Clark, are there any survey-type procedures involved with the record keeping part of this law? Mr. Clark: We don't do anything as far as information gathering off this tax.

REP. KADAS: Rep. Sales, why didn't this bill pass last session?

Rep. Sales: It sailed through committee and the House but was involved in a package tax deal in the Senate and was killed.

REP. SAUNDERS: Are there any regulations connected with this license? Mr. Clark: No, we just generate an invoice out and the businessman sends his money back in.

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REP. PAVLOVICH: Do plumbing shops or glass shops have to have this license? Mr. Clark: Anyone in the retail business.

Rep. Pavlovich: Who regulates cigarette licenses - doesn't the same FTE take care of that one? Mr. Clark: There are a number of these small taxes falling under different areas.

REP. HARPER: I agree completely with Mr. Clark. Rep. Sales is coming from the idea that this is an unfair tax. If you pick out any tax in this state, starting with the property tax, without looking at the revenue side of it, any tax is unfair. This isn't a flat tax - the vast majority of this tax is paid by the large chain stores. \$300,000 would fund water research in this state for two years - I cannot support this bill for that reason. We need revenue and we can't afford to just let this go.

REP. FAGG: I disagree. This is just taxation without a reason or with no benefits. It's just not the way we should represent the people in our communities. We can put alot of taxes on people if we just want to raise money, but that's not the purpose of the Legislature. There are so many licenses a person gets to the point they don't know how many they're suppose to have - it's ridiculous.

REP. WALLIN: This is a duplicate tax with the city - but the city at least provides services such as police protection. If it's unenforceable, we ought to do away with it.

#### HOUSE BILL 253

REP. ORREN VINGER, District 3, sponsor, opened by saying this bill amends two sections of the law. We have added "in person or by telephone" to the procedure. This will expedite matters as far as the contractor is concerned.

#### PROPOSERS:

PERRY WEIDLER, Montana Dakota Utilities, said as it is now, there is quite a bit of time delay when a request has to go through the mail.

GENE PHILLIPS, Pacific Power & Light, said this facilitates and legalizes the procedures that are being practiced now.

JOE FERRIS, Mountain Bell, said the proposed amendment (Exhibit #1) would force the utilities to keep a log of telephone calls that come in so there will be documentation of the calls. It will guarantee the contractor and the utility.

BOB QUINN, Montana Power Company, says the company supports this bill for the reasons stated previously.

H. S. HANSEN, Montana Technical Council, said this amendment clears up the issue as to whether we should open up the ground and find out where the utility is or to go with the specifications.

ROD HANSON, Montana Associated Utilities, said he was sure they

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had been in violation of the law up to now, and this would make it legal.

BILL OLSON, Montana Contractor's Association, said this was a housekeeping measure that would not cure everything but would help.

OPPONENTS: none

QUESTIONS:

REP. HART: If a contractor did receive information from you then you don't have to send someone out? Rep. Vinger: They would probably still send someone just for their protection.

REP. HANSEN: Would you please explain your amendment?

Mr. Ferris: If the contractor calls the utility, they will maintain a log of the calls - the contractor is protected and if they tear up our lines, we are protected.

REP. HARPER: If the contractor hits the utility, what would stop the utility from falsifying the log? Mr. Ferris: The excavator should ask for the name of the employee who takes his call. Rep. Harper: If we put this amendment on this bill, I have to cover myself by requesting it in writing - if a guy wants to take his chances, he can do it on the phone.

REP. ELLERD: They're asking for this legislation to help out their operations and make things more convenient. Why don't we try to help them.

EXECUTIVE SESSION:

HOUSE BILL 249

REP. FAGG made a motion that HOUSE BILL 249 PASS.

REP. LYBECK: I have to go along with Rep. Harper on this one. We have got to take a close look at revenue producing bills. Who we really are taxing is the consumer who this will be passed on to, I'm sure.

REP. FAGG: Then let's eliminate it and save the consumer \$300,000.

REP. METCALF: As a small business you pay the city and the city provides services, the state license is just an extra fee that seems to be truly unnecessary.

REP. ELLERD: Let's give it back to the local governments.

REP. HARPER: \$300,000 doesn't seem like much but you will not see many bills that raise half that much and this one has minimum hassle to collect. I can't vote for any bill that reduces revenue at this time.

Question: DO PASS motion failed 7-10 (2 absent). Motion by Rep. Pavlovich to REVERSE THE VOTE and DO NOT PASS carried unanimously.

(Roll Call Vote Attached)

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HOUSE BILL 253

EXECUTIVE:

REP. KITSELMAN made a motion that HOUSE BILL 253 DO PASS and moved that the amendment do pass.

REP. KADAS: I have a problem with the amendment saying "the information shall be presumed to be a correct statement". It could be satisfied by requiring the phone company to mail back a note saying what they said. This could be used in court.

REP. HARPER: I move a substitute motion to amend Page 1, line 17 to read: Following: "must" Insert: "record the nature and the date of the request and".

REP. ELLERD: Why couldn't we require the utility to send a wire? They would get authority immediately. They would be asking during working hours - all it involved is a call.

REP. KITSELMAN: I move the substitute motion be accepted. Unanimous vote.

Question: HOUSE BILL 253 - DO PASS AS AMENDED - vote: unanimous.

HOUSE BILL 229

REP. JACK RAMIREZ, District 64, sponsor, opened by saying this bill was at the request of the Secretary of State's office. He said it was generally a housekeeping bill.

PROPOSERS: Alan Robertson, Secretary of State's Office, said this bill doesn't change much. It makes a number of unrelated changes that have to be brought together under a big umbrella. It would not apply retroactively, it will apply on October 1. This bill revises the laws applying to business and nonprofit corporations to provide that: In restated articles of incorporation a business corporation sets forth the aggregate number of its shares, issued and unissued, rather than the amount of its stated capital. Also, no business or nonprofit corporation may use a name that is deceptively similar to any assumed business name, limited partnership name, trademark, or service mark registered or reserved with the Secretary of State, but the name used must contain the word "corporation," "company," "incorporated," or "limited." Also, notice of revocation of a corporation's certificate of authority must be issued in duplicate with one copy sent to the corporation and one copy kept on file.

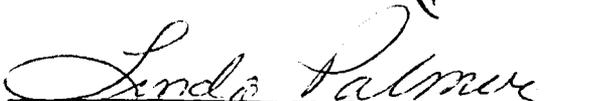
OPPOSERS: none

HOUSE BILL 229 - EXECUTIVE

REP. HARPER: I move HOUSE BILL 229 DO PASS - Motion passed by unanimous vote.

The hearing adjourned at 10:30 a.m.

  
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JERRY METCALF, Chairman

  
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Linda Palmer, Secretary

# STANDING COMMITTEE REPORT

January 24 19 83

MR. **Speaker:** .....

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

having had under consideration **HOUSE** ..... Bill No. **229** .....

**(white) first reading:**

**A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO BUSINESS AND NONPROFIT CORPORATIONS; AMENDING SECTIONS 35-1-213, 35-1-301, 35-1-303, 35-1-1006, 35-1-1020, 35-2-301, 35-2-805, AND 35-2-819, MCA."**

Respectfully report as follows: That **HOUSE** ..... Bill No. **229** .....

DO PASS

# STANDING COMMITTEE REPORT

January 24

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MR. Speaker:.....

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

having had under consideration..... **HOUSE**..... Bill No. **249**.....

(white)

**A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE REQUIREMENT THAT A STORE OBTAIN A STORE LICENSE FROM THE DEPARTMENT OF REVENUE; REPEALING SECTIONS 15-57-101 THROUGH 15-57-110, MCA."**

Respectfully report as follows: That..... **HOUSE**..... Bill No. **249**.....

**DO NOT PASS**

~~DO NOT PASS~~

# STANDING COMMITTEE REPORT

January 24

19 93

MR. Speaker:

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE

Bill No. 253

first reading copy ( white )  
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCEDURE FOR ACQUIRING INFORMATION CONCERNING THE LOCATION OF UNDERGROUND FACILITIES; AMENDING SECTIONS 69-4-503 AND 69-4-504, MCA."**

Respectfully report as follows: That HOUSE

Bill No. 253

**Be amended as follows:**

Page 1, line 17

Following: "must"

Insert: "record the nature and the date of the request and"

**AND AS AMENDED**

**DO PASS**

ROLL CALL VOTE ----- BUSINESS & INDUSTRY COMMITTEE COMMITTEE

	Date: 1-24 No: 249								
<del>BOB</del> PAVLOVICH, Jerry	DO PASS	DO NOT PASS	Y	Y	WALLIN, Norm	Y	NO		
BACHINI, Robert	NO	NO	Y	Y	METCALF, Jerry	Y	NO		
ELLERD, Bob	Y	NO	NO						
ELLISON, Orval	-	-							
FABREGA, Jay	-	-							
FAGG, Harrison	Y	NO	NO						
HANSEN, Stella Jean	Y	NO	NO						
HARPER, Hal	NO	Y	Y						
HART, Marjorie	NO	Y	Y						
HOWE, Romona	NO	Y	Y						
JENSEN, William	NO	NO	NO						
KADAS, Mike	NO	Y	Y						
KITSELMAN, Les	Y	NO	NO						
LYBECK, Ray	NO	Y	Y						
NISBET, Gerald	NO	Y	Y						
SAUNDERS, Glenn	NO	Y	Y						
SCHULTZ, Jim	Y	NO	NO						

7- Y 10 Y  
10- NO 7 NO

House Bill 253

Amend: Section 1, Page 1, Line 25

Following: "excluded

Add new subsection: "(3) In the event the person seeking the information doesn't make his request in writing, or does not request a written response, the books and records of the person providing the information shall be presumed to be a correct statement of whether the request was made, the nature of the request and the information provided.





