

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on March 15, 1983, in Room 420 of the Capitol Building, Helena, Montana at 9:00 a.m. All members were present except Rep. Fabrega who was excused.

SENATE BILL 298

SEN. TOWE, District 34, sponsor, opened by saying this bill revises the liquor license law by requiring that distances for determining location of licensed establishments within the five-mile radius of a town or city be measured in a straight line from premises to city limits rather than "over the shortest public road or highway." He illustrated the possible maneuvers available to undermine the present law, citing a tavern owner in Billings who had done so. The value of a liquor license increases tremendously if it is located within the city 5 mile radius. He stated we need to go back to "as the crow flies" for measuring the distances so no one can take advantage of the law.

PROPOSERS:

HOWARD HEFFELFINGER, Liquor Division Administrator: We strongly support any effort to make sure licensing is straight forward and easy to understand. We feel the straight line method is best for determinations. There can be questions as to what is the shortest route possible. We ask that you give this a favorable do pass.

OPPOSERS: none

QUESTIONS:

REP. JENSEN: The person who is in question in Billings will be able to keep his license? Sen. Towe: Yes, we passed the law last session that made it possible. We tried to think of every possible way it could be abused, but we didn't think of that way.

Rep. Saunders: Could you measure the distances accurately because every motor vehicle measures differently. JOHN MEREDITH, Dept. of Revenue: We purchased devices to use that measured very accurately. We will no longer need them.

REP. FAGG: If the city grows you bring the licenses that were on the outside in and their value increases? Sen. Towe: That's right - his license will go from a value of \$10,000 to \$130,000. The only way around that is to do away with the system.

REP. METCALF: Who will carry this bill to the House floor?
Rep. Jensen volunteered.

SENATE BILL 292

SEN. GOODOVER, District 22, sponsor, opened by saying this bill is at the request of a client of his who ran into a problem selling his license. It is not a common problem, but it should be taken care of. The client and his wife were divorced and he received the bar in the settlement - ran it for 10 years - and then decided

to sell. The deal was set and his ex-wife requested a hearing "orally" which delayed the sale. The hearing date was set and no one showed up in opposition. It was just an unnecessary delay to the owner of the license. This bill allows the administrator of the Liquor Division the discretionary authority to hold a hearing or not hold a hearing if he thinks the protest lacks merit. If it is a "frivolous" request and not received in writing, he can deny the hearing.

PROPOSERS:

HOWARD HEFFELFINGER, Liquor Division Administrator: In concept, the division supports this bill. We do see minor problems being created in determining what protests are without merit. It seems quite a bit of discretionary power will be placed on the administrator. If the administrator feels it is frivolous, then they can appeal it to the Tax Appeals Board. You might be creating two hearings instead of one. In any event, this does represent an attempt to speed up and simplify the process and we go on record as supporting that effort.

OPPOSERS: none

QUESTIONS:

REP. PAVLOVICH: Do you have many problems transferring licenses? Mr. Heffelfinger: We don't, but it's fair to say that the overwhelming number of protests are discredited after the hearing. It does require time and people to come a long way to Helena. 90% of the requests for license get them over protest. In most cases, I know the protest is going to be turned down anyway. REP. METCALF: Who is going to carry this bill to the House floor? Rep. Pavlovich volunteered.

SENATE BILL 184

SEN. MAZUREK, District 16, sponsor, opened by saying the purpose of the bill is to up-date the Montana Securities Act and give the department flexibility to adopt rules to exempt from registration certain issues by small and existing businesses attempting to raise limited funds.

PROPOSERS:

DOUG JAMES, General Council, Auditor's Office: The Securities Act is a very technical law. We are trying to make it a little bit easier to understand for businessmen to work with. When they attempt to work with it, they must go to an attorney first. It will allow businessmen to take advantage of federal deregulation they have enacted. It will give the securities administrator the authority to adopt administrative rules. We will develop a form the businessman can fill out and after approval, we will exempt him to raise so much money - only from sophisticated investors - to help his company. Another change will provide increased

protection for investors in Montana. The Manuel Exemption is when we examine an out-of-state firm and deny their request, they can have data printed up that looks official and come back. We then have to allow them. This will prohibit the exemption and provide more protection for the Montana investor. We will go on Central Registration Depository (CRD) and it will save in excess of \$30 million a year. (Exhibit #1)

BRUCE MACKENZIE, D. A. Davidson: As a member of the industry that is regulated by the securities law, I am in support of this bill that provides more regulation. The securities law provides liability for those people dealing in the area. At the present time, Montana has very few regulations and as a result it is perceived as a state that is difficult to work with, but there is a lack of understanding of the state's regulations. They need to know that Montana is accommodating to those that live within the law. Clarification leads itself to capital formation. Small businessmen have to turn to this capital investment vehicle and it should not be too burdensome. (Exhibit #1A)

OPPONENTS: none

QUESTIONS: none

EXECUTIVE SESSION

REP. KITSELMAN: I move SENATE BILL 184 BE CONCURRED IN.

QUESTION: The motion carried unanimously.

SENATE BILL 292

REP. PAVLOVICH: I move SENATE BILL 292 BE CONCURRED IN.

REP. HARPER: If we pass this bill with the rule making authority in it, sooner or later the administrator is going to get into trouble. The criteria mentioned to determine if it is a frivolous complaint is too vague. There is no time limit on how soon he must inform me my request has been denied so I could go through other means.

REP. KADAS: Instead of using the word "frivolous" we could say "in writing" to determine if a hearing would be held. We don't want to cut into people's opportunity to have things explained.

REP. METCALF: If the protestor feels they were turned down without merit, they can appeal.

REP. HARPER: The appeal process seems like a clumsy mechanism, but it does give him one shot at it.

REP. ELLISON: If they go ahead and issue the license, the protestor can still appeal to the Tax Board - that would really gum up the works.

REP. METCALF: Right now it says if they receive any protest at all they must hold a hearing. Perhaps we should change it to say written protest as Rep. Kadas suggested. That would eliminate many of the frivolous complaints. Would there still be a requirement for an appeal?

REP. HARPER: Section 16-4-411 says there is still an appeal.

REP. KADAS: I move we strike "may" on line 19 and insert "shall" and strike paragraph 4.

QUESTION: Motion carried unanimously.

REP. PAVLOVICH: I move SENATE BILL 292 BE CONCURRED IN AS AMENDED.

QUESTION: The motion carried unanimously.

SENATE BILL 298

REP. ELLISON: As soon as the city changes boundaries, the license changes in value.

REP. METCALF: We made this mistake last session and this will keep it solid from now on.

REP. JENSEN: I move SENATE BILL 298 BE CONCURRED IN.

QUESTION: The motion carried unanimously.

SENATE JOINT RESOLUTION 17

REP. KADAS: I move the amendment and I move SJR 17 BE CONCURRED IN AS AMENDED. It says that surplus electricity is what is used to lower DSI's rate and that under no circumstances should the lowering of DSI's rate ever result in the raising of rates to residential, commercial or agriculture consumers in the region. It may raise the rates to California but not in the region. This may change Mr. Elliott's intentions. (Exhibit #2)

QUESTION: The amendment carried unanimously.

REP. SCHULTZ: If the aluminum plants can't function under the rates imposed and the people aren't allowed to pay a little bit more to keep that plant in operation, what are they going to do?

REP. METCALF: Right now they are selling that power at a lower rate out-of-state than in-state because they have that excess. As long as there is an excess they can lower the rate and it won't jack up anyone's rate. By selling more excess power they can make more money and overall will come out ahead.

REP. SCHULTZ: I just don't want to see for a few mills another 500 people lose their jobs in Montana.

REP. KADAS: No place does it say how much, a couple of mills or many. I don't think that's our job - a rate making authority.

REP. WALLIN: I lived in the Flathead when the plants came in and were promised cheap rates. Now they are paying more than the rest of the people living in the valley. They have to ship the ore in at a great expense and they have to be assured of cheap rates to stay - if you take that away, there is no incentive.

REP. METCALF: This is simply a resolution, an intention being expressed to BPA. If we do put this amendment on it, it will go back to the Senate and Sen. Elliott for concurrence and I think we do deserve the option to have it discussed.

REP. HARPER: Without the amendment we are strongly urging BPA to lower rates to the industrial community and saying raise the rates on the people if you have to...we believe residential customers are ready to subsidize that outfit up there.

REP. METCALF: The amendment is effective as long as there is a surplus. If it comes to a point where there is no surplus, it no longer applies.

REP. HARPER: I hate to give BPA an excuse to raise rates.

REP. LYBECK: The aluminum plant gets electricity at a much lower rate but they have had a 700% increase over the last three years. We in agriculture have moved up 200 to 300 percent also. It's up for all of us. Without an industry, we go back to having nothing in the winter except recreational facilities up there. This is just a resolution, but these are ideas for future bills. I think the people are willing to pay more to keep that plant.

REP. METCALF: I don't think it hurts in our recommendation to them that they lower rates but not shift it on to other sources when a surplus does exist. I don't want to close that industry down either, but they shouldn't shove it off to residential consumers when they can have a lower rate on surpluses.

REP. BACHINI. If you were to talk to those people, they would be willing to have the rates raised to keep those jobs.

REP. JENSEN: When it says it won't cause higher rates, could that be taken to mean no higher than this point in time or no higher than the industry?

REP. KADAS: Cause higher rates means "than what they in that specific category already have."

REP. METCALF: Maybe you should say "increased" instead of higher. The intention is that you don't want to shift that load onto the consumer.

REP. KADAS: I move to amend the amendment to strike "higher" and insert "increase." This whole situation was created by the Northwest Power Act. BPA put out a notice of insufficiency that said there won't be enough juice to serve all your growth. The DSI's got together and said the most important thing was to make sure that they had firm electricity. They struck the deal that said you give us new 20 year contracts and we'll pay more for it. That was the first implementation action of the Northwest Power Act in 1980 and 1981. They are now coming back with a different story.

QUESTION: The motion carried with Reps. Pavlovich, Schultz, Wallin and Ellison voting no.

QUESTION: The motion that SENATE JOINT RESOLUTION 17 BE CONCURRED IN AS AMENDED carried unanimously.

Rep. Lybeck will check to make sure who is carrying this bill to the House floor.

The hearing adjourned at 10:15 a.m.

J. Metcalf

REP. JERRY METCALF, CHAIRMAN

Linda Palmer

Linda Palmer, Secretary

STANDING COMMITTEE REPORT

MARCH 15

19 33

MR. SPEAKER:

BUSINESS & INDUSTRY

We, your committee on

having had under consideration SENATE Bill No. 184

third reading copy (blue)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
APPLICABILITY OF THE SECURITIES ACT OF MONTANA; AND TO
PROVIDE A FEE FOR THE TRANSFER OF A SALESMAN'S REGISTRATION;
AMENDING SECTIONS 30-10-102 THROUGH 30-10-105, 30-10-107,
AND 30-10-209, MCA."

Respectfully report as follows: That..... SENATE Bill No. 184

~~XXXXXX~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 15

83

19.....

MR. **SPEAKER:**

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

having had under consideration **SENATE**

Bill No. **292**

third reading copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW PROVIDING
FOR PROTEST OF THE ISSUANCE OR TRANSFER OF A LIQUOR LICENSE;
AMENDING SECTION 16-4-207, MCA."

Respectfully report as follows: That **SENATE**

Bill No. **292**

BE AMENDED AS FOLLOWS:

1. Page 2, line 19

Strike: "may"

Insert: "shall"

2. Page 2, line 21

Strike: Lines 21 through 24 in their entirety

XXXXXX
DO PASS

AND AS AMENDED
BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 15

19 83

SPEAKER:

MR.

BUSINESS & INDUSTRY

We, your committee on

SENATE

298

having had under consideration Bill No.

third reading copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DETERMINATION OF DISTANCE LIMITATIONS FOR THE ISSUANCE OF A LIQUOR LICENSE; EXCEPTING LICENSES ALREADY ISSUED; AMENDING SECTIONS 16-1-106, 16-4-105, 16-4-201, AND 16-4-301, MCA; AND REPEALING SECTIONS 16-4-409 AND 16-4-410, MCA."

SENATE

298

Respectfully report as follows: That Bill No.

XXXXXX
DO PASS

BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 15

83

19.....

MR.**SPEAKER**.....

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

having had under consideration**SENATE JOINT RESOLUTION**..... Bill No. **17**.....

third reading copy (blue)
color

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
OF THE STATE OF MONTANA URGING THE BONNEVILLE POWER ADMINISTRATION
TO ADOPT A RATE STRUCTURE THAT WILL PROVIDE LOWER RATES FOR ITS
DIRECT-SERVICE INDUSTRIAL CUSTOMERS.

Respectfully report as follows: That**SENATE JOINT RESOLUTION**..... Bill No. **17**.....

BE AMENDED AS FOLLOWS:

1. Page 2, line 9

Following: "structure"

Insert: "utilizing current surplus electricity"

2. Page 2, line 11

Following: "facilities"

Insert: "if those lower rates will in no way cause increased
rates for other regional BPA customers,"

AND AS AMENDED
BE CONCURRED IN

XXXXXX
554433

March 15, 1983

EXPLANATIONS FOR THE PROPOSED AMENDMENTS

TO THE MONTANA SECURITIES ACT:

SENATE BILL 184

By

Doug James
General Counsel
Montana Securities Department

1. Page 1, Section 30-10-102 would be amended to provide general guide-
Lines 16-20 lines for the Securities Act. These guidelines would serve
 as a foundation for an expanded philosophy of regulation.
2. Page 2, Section 30-10-103(2) would be amended for grammatical pur-
Lines 4-7, poses and to provide an exemption from registration for sales-
10, 16-19 men who represent an issuer in effecting transactions involving
 securities that are exempt from registration under 30-10-104(12).
3. Page 12, Section 30-10-104(12) would be amended to make this exemption
Lines 11-15 from registration more practical. This amendment would provide
 that the Commissioner must consider the guidelines of 30-10-102
 when he considers granting this exemption.
4. Page 12, Section 30-10-104(13) would create an "exchange exemption", for
Lines 17-25 securities listed on national and regional exchange. This exemp-
Page 13, tion existed in Montana prior to 1978 when it was eliminated from
Lines 1-2 the Securities Act. The elimination of this exemption provided
 little additional protection for Montana investors and resulted
 in increased costs and expenses. Montana investors will be adequate-
 ly protected with an exchange exemption partly because federal
 law mandates that the exchanges maintain a certain amount of self-
 regulation.
5. Page 13, Se
Lines 10-23 r

9. Page 22
Line 13

Section 30-10-209(2)(b) would be amended to provide for the transfer of a salesman's license from one broker-dealer or issuer to another broker-dealer or issuer. Currently the Securities Department processes all of the paper work to license each individual salesman. In the near future, the Securities Department will join a national registration system known as the Central Registration Depository (CRD). This system will expedite the registration process which will save the Securities Department and the securities industry time and money. It has been estimated that the CRD system will save the securities industry and securities regulators approximately 30 million dollars each year.

10. Page 22
Line 25
Page 23
Line 1-3

Section 30-10-209(4) would be amended to provide that the fee for an exemption under 30-10-105(16) would be established by the Commissioner by rule.

Exhibit #1A



Because you want your money to do more.

D.A.
Davidson
& Co.

Incorporated

Montana's Oldest
Investment Firm

Davidson Building
P.O. Box 5015
Great Falls, Montana
59403

(406) 727-4200

Offices: Billings,
Bozeman, Butte,
Havre, Helena, Kalispell,
Missoula, Montana;
Williston, North Dakota

Corporate Office:
Davidson Building
Great Falls,
Montana 59401

Members:
Midwest Stock
Exchange Inc.
Pacific Stock
Exchange Inc.
Securities Investor
Protection Corp.

FEBRUARY 1, 1983

TO: SENATE BUSINESS AND INDUSTRY COMMITTEE
SENATOR ALLEN C. KOLSTEAD, CHAIRMAN

FROM: BRUCE A. MACKENZIE, VICE PRESIDENT/GENERAL COUNSEL,
D. A. DAVIDSON & CO.

RE: SENATE BILL 184

Members of the Committee:

D. A. Davidson & Co., as a member of the investment banking community, is directly affected by Montana securities laws in its everyday operations. The clarification of these statutes provided by Senate Bill 184 and the general updating of the provisions of the Montana Securities Act provided by the bill are supported by the Company.

We concur in all amendments proposed by the bill and, in particular, support the amendments which would grant to the Securities Commissioner's Office rulemaking capabilities which would add further clarification and flexibility to the Act.

The formation of investment capital and the investment capital markets require a clearly defined legal basis. Individuals engaged in this business must clearly understand the liabilities involved in engaging in the transactions that make up the capital market. Without clear definitions contained within the statutes and adequate interpretations through regulation, formation of capital is hindered. This has long-range implications for the economy of the state.

D. A. Davidson & Co. supports Senate Bill 184 and encourages its passage.

BAM:alc
83-8

LAW OFFICES
LUXAN & MURFITT
MONTANA CLUB BUILDING
P.O. Box 1144
HELENA, MONTANA
59624

H. J. LUXAN
WALTER S. MURFITT
MICHAEL J. MULRONEY
GARY L. DAVIS
TERRY B. COSGROVE
DALE E. REAGOR
PATRICK E. MELBY

January 27, 1983

PHONE 442-7450
AREA CODE 406

RECEIVED
STATE AUDITORS
OFFICE
JAN 28 1 49 PM '83
HELENA, MONT.

Mr. R.G. "Rick" Tucker
Chief Deputy Securities Commissioner
Mitchell Building
P.O. Box 4009
Helena, MT 59604

Re: SB-184

Dear Mr. Tucker:

I am chairman of the Subcommittee on Securities Laws of the State Bar of Montana.

The purpose of this letter is to state the Subcommittee's support for SB-184 containing revisions to the Securities Act of Montana. We believe the proposed amendments contained in SB-184 will be beneficial to investors and to the orderly and equitable administration of the Securities Act of Montana and urge its passage and adoption by the legislature.

Please introduce this letter as a statement of the Subcommittee's support for SB-184 at appropriate hearings on the bill.

Very truly yours,

LUXAN & MURFITT


by MICHAEL J. MULRONEY

MJM/gv

ALLEY, BURDETT & LARSON, P.C.

ATTORNEYS AT LAW

RANVILLE M. ALLEY III
ALBERT U. BURDETT
BRUCE A. LARSON

TRANSWESTERN III, SUITE 301
550 NORTH 29TH STREET
P. O. BOX 20495
BILLINGS, MT 59104
PHONE (406) 259-7841

January 25, 1983

RECEIVED
STATE AUDITORS
OFFICE
JAN 27 @ 2:23 AM '83
HELENA, MONT.

Mr. Richard G. Tucker
Chief Deputy Securities Commissioner
Montana Securities Department
P.O. Box 4009
Helena, Montana 59601

Re: Legislation Proposed by the Securities Department

Dear Rick:

Please be advised that our firm wholeheartedly supports your efforts to revise Part 1 of the Securities Act of Montana. I have reviewed the legislation proposed by the Securities Department and find that it contains provisions which will greatly enhance the securities market in Montana. Furthermore, the proposed legislation should provide a base upon which further refinements, benefiting both the securities industry and the consumer, can be made.

As you are aware, the securities industry is undergoing rapid change. New securities "products" are now being marketed which were unheard of even five years ago. It is, therefore, important that the laws regulating that industry be updated to enable the Department to continue to protect the investing public without unduly restricting the growth and evolution of the securities market in Montana. In this regard, I wish to commend you in your efforts.

Very truly yours,

Bruce A. Larson

Bruce A. Larson

st

JACKSON, OITZINGER & MURDO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

203 NORTH EWING STREET

HELENA, MONTANA 59601

(406) 442-3000

DAVID L. JACKSON
JOHN J. OITZINGER
ROBERT M. MURDO
JOHN H. GRANT
CURTIS E. LARSEN

L. V. HARRIS
COUNSEL

TELECOPIER
(406) 443-0745

February 1, 1983

RECEIVED
STATE AUDITOR'S
OFFICE
FEB 3 9 51 AM '83
HELENA, MONT.

Douglas James, Esq.
Staff Attorney
Montana Securities Commissioner
State Capital Building
Helena, Montana 59620

Re: Senate Bill 184

Dear Mr. James:

As chairman of the Business Law Section of the State Bar of Montana, I want to thank you for allowing our section, through the Securities Subcommittee, to comment on and analyze the above-referenced bill. The opportunity to be involved in the development of the bill from the July drafts to the final product allowed our section members sufficient time to provide the critical analysis this type of specialized legislation requires.

Members of the Securities Subcommittee have indicated their impressions of the legislation in letters to you.

Very truly yours,

JACKSON, OITZINGER & MURDO

Robert M. Murdo

By: Robert M. Murdo

RMM/ktb



SCHOOL OF LAW

(406) 243-4311

University of Montana
Missoula, Montana 59812

January 7, 1983

Michael J. Mulroney, Esq.
P.O. Box 1144
Helena, Montana 59624

Re: PROPOSED CHANGES TO THE MONTANA SECURITIES LAW

Dear Mike:

I have reviewed the final draft of the proposed changes to Title 30, Part 10 which was forwarded by Bob Murdo by letter dated December 20, 1982. I believe that the changes are acceptable and would support them.

Cordially,

Ronald C. Wyse
Professor of Law

cc: Robert M. Murdo, Esq.
230 N. Ewing
Helena, Montana 59601

Douglas James, Esq. ✓
Staff Attorney
Office of Montana Securities Commission
State Capitol Building
Helena, Montana 59601

JAN 10 10 56 AM 1983

PROPOSED COMMITTEE
AMENDMENTS FOR SJR 17

Page 2; line 8, following "structure"

Insert: "utilizing current surplus electricity"

Page 2, line 11, following "facilities"

Insert: "if those lower rates will in no way cause higher
rates for other regional BPA customers."

MK/mac

Bus. + Ind.

COMMITTEE

SB 292

3-15

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE

Bus. & Ind.

BILL

SB 298

Date 3-15

01
PO:

James Haffner
Bob Burke
Jon Meredith

Heads MT

Dept of Revenue
MTA

DOR

Form CS-33
1-81

VISITOR'S REGISTER

HOUSE

Bus. & Ind.

COMMITTEE

BILL

~~SB~~ SB 184

DATE _____

3-15

SPONSOR

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.