

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on March 17, 1983, in the Governor's Reception Room of the State Capitol, Helena, Montana at 9:00 a.m. All members were present except Ramona Howe who was excused.

SENATE BILL 340

SEN. GALT, District 23, sponsor, opened by saying this bill deals with the qualifications for people who are aspiring to be land surveyors. The requirement for 90 credit hours will be replaced with 10 years of office and field experience with at least 6 years in charge of land surveying projects in Montana. This only affects the requirements to take the examination. It replaces education with practical work experience.

PROPONENTS:

J. K. KOCARA, Roundup: This does not take away any of the power of the Board, it only gives them more flexibility. Persons who want to become land surveyors in Montana can substitute experience for education. Forty-three states responded to a poll on land surveyor requirements. Eighteen required a land surveyor-in-training certification. Twenty five did not require that. Of the forty-three responding, 28 allowed a full range of education and experience or straight experience in order to sit for the examination. Someone from Montana could go to one of those states and use their experience to take the exam and then be qualified to be a surveyor in this state. We should give Montana residents that same opportunity. I asked if a correspondence course would qualify for the examination - they said yes. During the interim, the board decided that wasn't the way to go so my education was not useful. The person who has the self discipline to gain the experience and knowledge should be able to at least take the examination. The board will be able to review the person's experience and make a judgment.

OPPONENTS:

ROBERT HAFFERMAN, Director of Public Works, Kalispell: I am on the Board of Professional Engineers with a background in engineering in the civil field. Montana has three criteria in the standards a land surveyor must meet - education, experience and testing. How much and what type of experience is adequate? Is doing the same thing each year for 20 years considered 20 years of experience or one year of experience done 20 times? It is now eight years since the education requirement was enacted. Our system is now working and is accepted by the people in the profession not only in Montana but in other states. Do we really want to lower our standards? (Exhibit #1)

C. E. ABRAMSON, Board of Surveyors: We hope that you give

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this legislation a do not pass recommendation. I am firmly convinced education, experience and testing is the way to go. Licensing is for the protection of the public. There are problems surveying the eastern part of this state because some pieces are 800 to 1,000 acres. Someone who has not worked in that area would have no way of knowing those problems. There are 550 surveyors registered in the State of Montana.

SEN. GALT, in closing, said, "I am surprised by the opposition of this little group of professionals trying to protect their turf. Many people succeed without education. These people with experience just want the opportunity to take the exam. The board can still turn them down.

SENATE BILL 305

SEN. MANNING, District 18, sponsor, opened by saying this bill revises the public utility law to allow an applicant to waive the 9 month time period if the PSC fails to act on a request for a rate change during that time. If the PSC fails to act in 9 months and the utility does not waive the statutory period, the rate request becomes effective as if approved by the PSC. However, if the PSC later denies the request, the utility will be required to rebate funds collected under that changed rate plus interest set by the PSC but not greater than the cost of equity capital.

PROONENTS:

JOHN ALKE, Montana Dakota Utilities: We support this legislation.

OPAL WINEBRENNER, PSC: (Exhibit A)

GENE PHILLIPS, Pacific Power & Light: We support this legislation.

OPPONENTS: none

REP. HARPER: How is the cost of equity capital determined? John Alke: An expert witness of the utility companies who examines the records of the company says 15.5%, and the Montana Consumer Council determines it's 13.5%. The commission then makes a decision.

SENATE BILL 450

SEN. CRIPPEN, District 33, sponsor, opened by saying we have a problem in this state pertaining to liquor licenses. The quota system started out on the basis of population. Soon we found the demand for licenses out-paced the supply. As a result no new licenses were available where the economy was going great. Therefore, instead of getting a license from the state you would have to buy a license from an existing bar. In Billings the most recent one sold for \$165,000. \$40,000 or \$50,000 was fine but to pay in excess of \$100,000 makes the economics of opening a new business infeasible. The

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liquor license has been determined to be a property right. Therefore, we cannot use the need and necessity system and abandon the people who paid a great deal of money for their licenses - we would have to compensate them adequately. The floater system does not work either - we need a law that is fair to all. This bill addresses a part of the problem. It creates a new class of all-beverage license for restaurants only. The person who applies has to be qualified under the law. He must intend to operate a restaurant at a specific location, and it has specific requirements for the kind of restaurant. The State of Wyoming is where this statute was taken from. There is no new license issued. Licenses available in under quota areas could be cancelled by the owner and reissued to someone in another area. It is not like an all-purpose license - it could only be used in the original location. We are not trying to bust the quota system.

Costs: These are being floated out of economically depressed areas. We have a minimum of \$50,000 which is a one-time fee. It could be \$65,000 or \$70,000. Of that, \$10,000 goes into the community. The remainder would stay with the person selling the license - it would guarantee \$40,000. We want to let the people of this state compete - they can with this bill. A Statement of Intent will be needed. We have some amendments to offer: 1) To make sure this bill does not bust the quota system, we will provide a sunset provision. If after 4 years it doesn't work, it can be terminated. 2) We will put a quota on the quota by limiting the number of restaurants that can come into a community eliminating the flood gates from opening. You could not bring in more than 5% of those already in operation in a year. (Exhibits #2 & #3)

PROPOSERS:

RICHARD NELSON, owner of restaurant in Billings: When I decided to open my restaurant I called the Dept. of Revenue about obtaining a liquor license. There were none available. The census bureau gives population figures every three years so it will be that long before we will get perhaps a few more licenses in the Billings area. There has to be some give and take in the system and you keep passing this along. Maybe there should be some gradual change - this bill may be the way.

JIM GUSICK, Billings: The cost of building, equipping and buying a liquor license for a restaurant is overwhelming. I think this is an honest, sincere attempt to supplement the system.

REP. FAGG, Billings: I own a business in Billings. I believe doing business is a privilege that should be run by competition. I went to the people who distribute licenses and they said there would be no problem - just wait for the census and there would be at least 5 new licenses available. Those 5 licenses came but they probably won't be freed for another three years because they are tied up in litigation. They

said - no problem - take a special census of the community and if there is a need for expanding the quota we will. It would have cost \$85,000 to do that. Next, look for a license that is coming in within the 5 mile limit. We could find none. There was no license available. We decided to go to Butte and float one in. The law prohibited it. After a great deal of effort, we found one gentleman in Billings who was going bankrupt. We paid \$135,000 for the privilege of doing business. The chairman of this committee owns an antique business - how would you like to spend \$135,000 to open an antique shop? Rep. Ellerd is in the livestock business - would you like to spend \$135,000 to open up your business? This has been carried to the point of being absolutely absurd. One section of Montana business, the restaurant business, is being singled out and not given the chance to give a competitive edge to their neighbors. A person selling liquor can go into the restaurant business but a person selling food cannot go into the liquor business. The quota system cannot be broken wide open because it may lead to excessive drinking, etc. But, at least one person who owns an all-beverage license in Montana is saying it's unfair and it's not competitive and against the free enterprise system to continue under the current system we have at this time.

OPPONENTS:

PHIL STROPE, Attorney - Montana Tavern Association: We represent 2/3 of the licensees in Montana. This bill would be devastating to our industry. When the voters declined to pass I94 they were saying the people of this state don't want any more outlets for liquor. Liquor is a unique commodity - it is not groceries. The function of liquor control in this state is not to raise revenue but to control it. This bill would create more problems than it would attempt to solve. What if more than one person wanted to buy a license and only one person wanted to sell? The department would have to select one. Wouldn't there be a law suit saying they had been discriminated against? If the owner of the license wanted to move his business and the license is a property right, the courts would come in on that also. What is the criteria of food? Does chili out of a can make a restaurant? If he quits selling chili after he buys the license, are you going to take it away? As to the 5% fudge factor amendment...this will really create litigation. It is unclear what the 5% applies to, and which years it applies to, and whether you add the fudge next year to last year to determine the fudge for the succeeding year. Sen. Crippen would like to put some more licenses in Billings. He would not need a whole new law and a new class - all he needs to do is go to the basic floater law and increase the amount that can be floated and his problem would be solved.

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CHARLES LESTER, Sage Advertising: I represented the opponents in defending I 94. An independent firm from Detroit polled Montana statewide. They found that 65% of the people in Montana felt the quota system is a good idea. Eight percent had no opinion and 27 percent said it was a bad system. The people said two to one they do not want the quota system changed.

PAUL CARUSO, President, 1st Security Bank, Helena: SB 450 creates a financial nightmare, not only for the licensees involved, but for the over 1700 individuals, financial and other lending institutions that have relied upon the decisions by the Supreme Court, holding licenses to have property rights. The Dept. of Revenue records show there are an average of 30 transfers of ownership of licenses each month. The new owners of these licenses, for the most part, have purchased an existing business and license and present them as collateral for the financing they seek in establishing their new businesses. To change the rules of the game without consideration for these commitments, is not equitable. (Exhibit #4)

DAVID BECK, Livery Stable, Bozeman: Two years ago I spent a lot of time getting the Dept. of Revenue to issue new licenses available through the 1980 census. At one point the department of revenue decided not to recognize the city boundaries established by the Dept. of Commerce and the census bureau. This meant that because of an annexation that took place after the census bureau had established boundaries for Bozeman, it brought three liquor licenses from the 4-corners area within the five mile radius of Bozeman. It therefore, nullified the new licenses the dept. of Revenue had previously decided to issue in Bozeman. At this time Sen. Boylan introduced SJR 35 that required the Dept. of Revenue to recognize the boundaries that the US Census Bureau has established on Jan. 1 of 1980. We then thought things were on line again. These licenses were involved in litigation from day one. We went ahead and purchased a license at fair market value and opened our cocktail lounge. It represented a sizeable financial investment for us. If SB 450 becomes law, you have totally pulled the rug out from underneath me and totally devalued my investment over a situation the legislature created back in the 1930's. Is it fair my investment not be worth even half of what I paid for it? It is not the quota system that does not work, it is the procedure of issuing the licenses.

JEFF HAINLAIN, 4 B's, Inc.: We are not interested in opening a liquor establishment but we go on record as opposing SB 450.

ERNIE GRASSASCHI, 3-D, Great Falls: We are over quota in Great Falls and we are working with four bankruptcies in the bar industry. The quota system works for 90% of the state and it should work for Billings as well.

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ELLEN FEAVER, Dept. of Revenue: I'm neither an opponent or proponent of this bill. We have a question about the current owner of an all-beverage license to transfer his own license by the payment of \$10,000. We would need a statement of intent defining restaurant. Where the bill says that food must be the primary source of revenue, I need to know whether the legislature contemplates our doing an annual examination of financial statements or if this is a requirement that will be met when the initial license is purchased. We want the legislature to tell us what they want, rather than having us trying to figure it out on rules. Where it states that the license is not transferable except with the restaurant. It would be helpful if you specifically stated that the license may not be transferred to a different location.

SID TEARS, Laurel: I own a place in Laurel that is not paid for and I think this is a bad bill.

WALLY TRERISE, Tri County Tavern Association and the Exchange Bar, Montana City: We oppose this bill.

DON ROBINSON, Great Falls: Many of the proponents stated there was not a free flow of free enterprise involved in the quota system. In Great Falls two years ago, licenses were \$135,000 and today they are going for \$65,000. The free enterprise system does work in quotas.

A show of hands in the room of those opposed to SB 450 was almost unanimous.

GERALD BAKER, Missoula: Ours was the only county that voted in favor of I 94. A few of you on the committee should vote that way but the majority of you have a mandate from your people to vote against this bill, as does the governor because he represents the people. This bill should die right here.

LEE STEFFANICH, Billings Heights: 15 years ago when I went into business there were 3 bars in my area. There are now 9 and one more is opening soon. The quota system does work.

ROGER BELL, Billings: I am one of the owners of Dos Nochos and we purchased a license 3 years ago for \$125,000. Our liability as of this month is \$89,000 so I'm a little nervous about this bill. Our landlord is Mr. Crippen.

FRED FREY, Kalispell: I am opposed to this bill.

SHELDON NEILSEN, Plentywood: I'm representing Daniels and Sheridan County, a long ways from here. There are only two bars up there that don't have a mortgage at the bank. Our restaurants that don't have a license are doing good.

JERRY BAG, Kalispell: I own the Bulldog. There are many bar owners up there who are worried sick about this bill but they are small businessmen who don't have managers and

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they don't have secretaries and they aren't able to get away to come here and testify. Please don't put us in such jeopardy in the liquor industry as this bill wants to do.

BOB DURKEE, Montana Tavern Association: The distances most of these people traveled to get here today certainly warrants your consideration on this bill today. I think Sen. Crippen should have left some of the \$10,000 for local governments to go to the state for processing as they are the ones who issue the license. I can only remember one law ever actually being sunsetted. Establishing another quota will compound the problems the liquor division has in administering the quota system. I think if you amend this bill by striking the enacting clause, you will succeed.

REP. PAVLOVICH: I speak as past president of the Silver Bow Tavern Association. This bill is between Butte and Billings. We have the licenses to sell and they have the people that want to buy them. We are approximately 60 over quota and come July 1 we will have many to sell. When I bought my business 33 years ago there were 232 licenses in Silver Bow County - we are down to 87 now. Slowly but surely we are getting within a decent range where we can make a living as a tavern owner. This bill is an insult to Sen. Healey's amendment to the floater license last session. That amendment for a five year provision would have taken care of everything.

SEN. CRIPPEN, in closing, said that all the people present pointed out that there is definitely a problem with the quota system as it presently stands. This bill was an attempt to help solve some of the problems by balancing the so called property rights versus the idea of letting people in carte blanche and eliminating those property rights. It's said that the liquor people have a strong-hold on the legislature. Somehow or another, we have got to address this problem. It may be the Dept. of Revenue's fault, but there is obviously a problem.

QUESTIONS:

REP. FABREGA: I was one of the legislators that participated in the opposition to I 94. There were three issues involved and I would like you to tell me which issue the people voted on. Was it the potential cost of \$30 million, was it that legislative remedies could be had, or that there should not be an expansion of drinking? Which of those did the people vote on? Mr. Lester: The single most reason was the fear of teenage drinking and driving and increased consumption.

REP. FABREGA: It said the legislature can deal with this problem. If a person who owns a restaurant and wants to sell his license to a person who wants to open a bar, can he do that? Mr. Crippen: If you have an all-purpose license you can sell to anyone.

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REP. FAGG: Is it correct that at this time there is no way a license could be transferred to Billings from say Butte? Mr. Strope: That's correct.

REP. HARPER: Do you intend that the Department administer a renewal license on the fact that the majority of his revenue comes from the sale of food? Is this a one time requirement?

SEN. CRIPPEN: One time. Rep. Harper: Then why are we even putting the restaurant requirement in here? Once he pays the amount of money needed for one of these licenses, he is probably going to have to make at least as much off liquor as food to pay for it. He's not going to be required to operate a restaurant after he gets the license. Why put it in?

SEN. CRIPPEN: We came up with a definite criteria for a license. If someone is going to spend the amount of money it takes to open a restaurant, they are not going to suddenly drop out of that business. The department will have to be satisfied of his intentions.

The hearing adjourned at 11:16 a.m.

J. Metcalf

REP. JERRY METCALF, CHAIRMAN

Linda Palmer

Linda Palmer, Secretary

VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL SB 450
SPONSOR CHAPMAN

DATE 3/18/83

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COMMITTEE _____

BILL 450

DATE _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Chesler H. Bullock	Basin Mt.	Silver Saddle Bar.		✓
Rose Lee Bullock	" "	" " "		✓
Donald Lytt	Helena, mt	H.A.P.		✓
Johnny Fletcher	Billings	Horseshoe Club		✓
Neal Kirkness	"	Lions Den		✓
Steve Pekoch	"	Club 90		✓
James Miles	41m, mt	Village Inn		✓
Eric Murphy	Gros Ventre	Murphy Bowling Center		✓
	"	Ten 11 Cue Recreation		✓
Dan Clark	Helena	Rose's Cantina		✓
Visa Lawrence	Helena	Lehman's Resort		✓
Patricia Wagstaff	Helena	Owner Bar		✓
Peter Gilligan	ST Falls	Own Bar		✓
Gary B. Warfield	Helena	Corner Bar		✓
James Glass	Helena	Glass Sliders		✓
Glen Humphrey	Jackson, Mont.	Director SWARTA Jackson Hot Springs Lodge		✓
Frederick Koenig	Livingston, mt	Copy Corner Bar		✓
Richard Appling	Lead Falls	Senate District 18		✓
Ben White	Evans MT	Ev-Ko Tavern		✓
George Kenney	Libby, Mont.	Branding Iron Inn		✓

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HOUSE Bus. & Ind. COMMITTEE
BILL SB 305 DATE 3-17-83
SPONSOR Manning

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HOUSE _____

COMMITTEE

BILL 150

DATE _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Don Filipovic	Bozeman	Courtesy Lanes		✓
Jee Roberson	St. Falls	Hi Ho Tavern		✓
Gitta Olson	Harlowton	Bugle Bar		✓
See Deyo	White Sulphur Spn	THE LANE		✓
Mad T. Hammel.	Black Eagle, MT.	3-D INTERNATIONAL		✓
Mark Wintz	Harlowton St.	Stockmen Bar		✓
Jack Coffey	Harlowton, MT	Argonaut		✓
X Shelly Dugan	Great Falls	Skylane Inn - Lounge		✓
Valley Roberson	Great Falls	The Other Place		✓
Don B. Brown	Great Falls	THE BEACON CLUB		✓
Rich Hall	GREAT FALLS	SKYLANE BOWL - ALIBI LOUNGE		✓
LIZ Gunn	HELENA	COACH HOUSE MOTEL INNS		
Joe Askerson	Kalispell	South Shore Inn Robson		✓
Ross Fox	"	3 miles down		✓
Robert & Bryant Schley		Calicoe Lounge		✓
Cathy Johnson	Ft. Benton	Pastime		✓
Merle N. Sierem	of ROY	HALF WAY HOUSE		✓
Dolph H. Lyttel	LIBBY	London Chute Bar		✓
Patricia Bee	BILLINGS	Dos Masehos		✓

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NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Gay Randal	Flathead, mt.	Burn Stein	✓	
Arthur Holm	Scobey 770	Ponderosa Bar	✓	
Debbi Grassetti	3-D Great Falls	3-D Lot.	✓	
Dick Burk	E. Helena	Korner Bar	✓	
Mary Burk	E. Helena	Korner Bar	✓	
John Bassett	Borrie Black Eagle	Borrie's	✓	
D. W. Laine	Gaughan, Helena	M.T.D.	✓	
Ronald Sykes	Fortine	Jerry Saloon	✓	
Pat Updike	Curlew	Sienna Tavern	✓	
M. Mayenne	Helena	Lakeside Resort	✓	
J. M. Kaenig	Laurel	Cozy Corner	✓	
J. Reed	W.S.S.	Mountain Creek Club	✓	
Al McComb	Helena	McNamara's BAR	✓	
Henry McSpadden	Fortine	Scamp Saloon	✓	
James Dickey	Birch Ridge	Co. 6 90	✓	
Howard Bullock	Livingston	Park City Tavern Assoc	✓	
W. E. Trierise	Helena	Tri-County Tavern Assoc	✓	
Tom Feister	Great Falls	Jeff	✓	
Clarence Horning	G. F.	Self	✓	
Henry Skypa	G. F.	ROSE ROOM	✓	

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NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSI
David Beck	Bozeman	Livery Stable		✓
Wade S. Beck	Bozeman	Livery Stable		✓
CE Hoffman	Missoula	MT Board		
Judith Sujer	Foothills	Buffalo Bar		✓
Dianne Goss	BILLINGS	Top Inn		✓
Janet Hough	BILLINGS	Naug & Novis		✓
Taylor Hough	BILLINGS	The Key		✓
Audrey Kraft	Fairfield	The Aragon		✓
Ken Kunkel	Bill	Ken's Eat Bar		✓
Rose Piddon	Great Falls	Blue Lady		✓
Debby	Missoula	Tele		✓
Eve Linton	Rock	W.H. Palmer		✓
L. Chastell	St. Ignatius	44 Bar		✓
Sid Peiss	Laurel	Sid's Place		✓
Eric Powers	Dillon	Bannack House		✓
Rick Norton	Dillon	S. W. M. T. P.		✓
Diane Sabo	Sheridan	STOCK MAN		✓
Caron Weis	Lam	Calrose Saloon		✓
Jeff Bainbridge	Missoula	4BS Inc		✓
Joe Reviara	BILLINGS	The Key		✓

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NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Jim Greig	2312 Spruce Billings	Self	✓	
Leggerow	Brady	self	✓	
Hamit Bayas	Brady	self	✓	
Bruce Simon	DILLINGS	Self	✓	
Bob Durkee	Mont TAVERN	HELENA		✓
Charles Testo	Sage Advertising	Helena	✓	
Jim Beutig	oblique Bar	Moore	✓	
Red Head	Holson	OxenYoke Inn	✓	
Mule Beutig	Office Bar	Moore	✓	
Tom Kreckhuk	K-Klub	Pablo	✓	
Norman Goss	Bar Bar	Galton	✓	
Bill Shubin	Four Star	Ravalli	✓	
LAUREL CHARETTE	44 BAR	ST. IGNATIUS	✓	
Bruh & Riedy	Montgomery Kilkelly	Bellawire	✓	
Bill Kusey	Helena	Colonial Inn	✓	
Lee Stettlerich	Billings	Circle Six Inn	✓	
Bob Blam	Billings	Reno Club	✓	
Johnny Nader	Plumwood	Longfellow Bar	✓	
Lucy D. Belic	Misoula	Jerry's Barber Shop	✓	
Arnold Girard	Scobey	Bayas 109	✓	

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BILL SB 340

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Exhibit A

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3008

Thomas Schneider, Chairman

John Driessell
Howard Ellis
Clyde Jervis
Danny Oberg

MONTANA PUBLIC SERVICE COMMISSION'S STATEMENT OF SUPPORT SENATE BILL NO. 305 (SENATE THIRD READING COPY)

BACKGROUND

SB 305 amends Section 69-3-302, MCA, "Changes in schedules" which concerns utility rate schedules. Section 69-3-302 was originally adopted to address the regulatory lag time occurring from the date the utility filed its rate application with the Commission until the date the Commission issued its final order. If the Commission is unable to issue a final order within nine months of the date that the utility filed its rate application, the utility can begin charging its customers at the rate level requested in its rate application. When the Commission's final order is issued, if the approved rates are less than those requested by the utility, the utility has to rebate the difference in revenues to its customers.

Currently the Commission allows a utility to waive the nine-month period, so the utility is not put into a rebate position. The waiver is especially helpful when the time period between the expiration of the nine months and the issuance of the Commission's final order is only a few days. The utilities have usually waived the nine-month period, but some have had misgivings, in view of the statutory language. The statute provides that the applied for rates shall become effective nine months after filing unless the Commission has acted on the application.

AMENDMENTS

The Bill contains three major amendments which address the rebate option, assessment of interest on rebates, and Commission rulemaking authority.

Amendment No. 1: To allow public utilities the option of waiving the 9 month time period in which the Public Service Commission is to issue its final order on a utility's rate application.

The new language in Section 69-3-302(1) will clearly allow a utility the option of waiving the nine-month time period to eliminate the possibility of a rebate until the Commission does issue its final order.

Section 69-3-302(2), MCA is amended to make it consistent with Section 69-3-302(1), MCA by also including the utility's option to waive the nine month time period.

Amendment No. 2: To allow the Public Service Commission to determine the interest rate that is assessed on revenues collected by the utility that are subject to rebate. The Senate accepted an amendment that if an investor-owned utility must rebate revenues to its consumers, the Commission cannot set the interest rate on the rebate to exceed the cost of equity capital as most recently determined by the Commission for the utility.

Section 69-3-302(2), MCA, currently provides that the Commission must assess interest at an annual rate of 10 percent on the revenues collected by a utility that are to be rebated. The bill's amendatory language would provide the Commission discretionary authority to determine the interest rate for each rebate situation, except when an investor-owned utility is involved. The Commission cannot set an interest rate for investor-owned utilities that would exceed the cost of equity capital that was determined by the Commission for the particular utility in its latest rate case.

Amendment No. 3: To authorize the Commission to prescribe administrative rules in order to implement Section 69-3-302, MCA as amended.

The bill provides that the Commission has the authority to promulgate administrative rules to implement the Section as amended, and also includes a statement of intent which lists factors the Commission might consider in determining the interest rate to be assessed.

Statement On: SB 340

To The: Business and Industry Committee
Of The: Montana House of Representatives
On: March 17, 1983

Introduction

My name is Robert Hafferman. I am from Kalispell where I work for the City as Director of Public Works. I am also on the Board of Professional Engineers as both a Professional Engineer and a Professional Land Surveyor, with a background in engineering in the Civil Field.

Land Surveying Historically

While both construction surveying and land surveying are old, old, old professions, the recognition of land surveying as a separate profession is relatively new. In fact, in Montana during the 60's, you could obtain a land surveyor's license without further testing if you were registered as a Professional Engineer. Even in the 70's, one of our neighboring states still issued land surveyor's licenses to Professional Engineers licensed in the Civil Discipline.

Through the years, conditions have changed. When I first started in the field (I graduated from Montana State College in 1954), there were the construction surveyors who moved from job to job and the surveyors who remained in one location engaging in primarily boundary

surveys and also doing construction surveys. How many of you still think of a Civil Engineer as a surveyor? Today, this is not even remotely true. In fact, today there are construction surveyors (who do not have to be licensed) Land surveyors, and Civil Engineers---3 separate entities.

During my working life there has been a dramatic change in the land surveying profession. It used to be that if you wanted to sell a parcel of ground you simply called a surveyor and he came out, you discussed what you wanted done, he performed the survey, went home, wrote the description and drew the map and gave you the same for filing. My job as a land surveyor was often easier--I could go to the property owner or neighbor and they could help me find a section corner as they had lived there forever and ever, and much of the land had not been subjected to the dozer blade.

Obviously, those days are gone. With the acceleration in development came the demand for land surveyors. Now, this has been in the last 20 years. With development came regulation, the more intense the development, the more intense the regulation.

How much time does a land surveyor spend today on the real heart of his profession--the boundary? With most land surveyors, VERY LITTLE! With subdivision procedure consisting

of application forms, environmental assessments, percolation tests and soil profiles, topography, layouts of curvilinear developments (which I could discuss as a separate topic with regard to land surveying) and meetings, meetings, meetings, there is precious little time for boundary surveying.

As in any situation--demand comes with the need for reasonable adherence of quality. I don't care if you have radios to offer (UL approved) water pipe for sale (NSF sealed) or medication to dispense, there is a standard to meet.

Standards for Land Surveyors

Montana has 3 criteria in the standards a land surveyor must meet---education, experience and testing. Standards must change with changing times.

How much education is necessary? Is the 7th grade enough, since by that time you have the rudiments of math and the computer can do the rest? Or should a high school education be required, since now you could have had Algebra, Geometry, Trigonometry and English, and you can turn to the computer for the formula which can be found in any handbook? Or should there be education beyond the high school level wherein you get intensely exposed to the principles and practices of land surveying

such as the functions and use of the instruments of the trade, property surveys and monumentation, subdivision planning and design, survey law, descriptive writing and college mathematics, which would allow you to derive the formulas found in the handbook?

How much and what type of experience is adequate? Is doing the same thing each year for 20 years considered 20 years of experience or one year of experience done 20 times. I make this reference since I want you to relate this to the work done by a land surveyor which does not involve boundary surveys.

Should there be a test? Remember, at one time in Montana you could get a land surveyor's license without any land surveyor's test. Then there was an 8-hour exam. Now, it's 16 hours.

Registration and Reciprocity

Montana was one of the first states to adopt the education requirement for registration, that was in 1975. Since that time many other states have followed suit. In fact, a national exam is now offered to land surveyors.

A national standard is necessary. The basic elements of land surveyors is pretty universal and some of the principles and practices apply from state to state. In Montana, our test consists of 12 hours of national examination and 4 hours of a test we on the board, prepare. This 4 hour test deals with rules, regulations and conditions specific to Montana, which may or may not be applicable to any other individual state.

The land surveyor today is as mobile as the construction surveyor of yesterday. Reciprocity becomes important. Do we want our standards lower than other states, or do we want our registrants capable of reciprocity with other states? Conversely, should we lower our standards, thereby qualifying applicants for reciprocity when the applicant's state has a standard lower than ours of today? Remember, we are dealing with applicants whom we know only from what is on the application, his references and his academic achievement. You can paint a pretty rosy picture on an application if you are of that bent. You chose your references. Facts are facts on an academic record.

Why The Standards of Today

The Montana Board of Professional Engineers and Land Surveyors and the Land Surveyors themselves, do not take lightly the responsibilities of the profession. When change is needed, we hope we're not too far behind the times.

When the law requiring 2 years education for land surveyors was enacted, in 1975, there was a grace period of two years to let those who were qualified under the old law to become registered. In addition we have been quite lenient in the specifics of the courses required, recognizing the institutions of education for land surveyors were not as easily available, as say, engineering. We recognize known home study courses, also.

It is now eight years since the education requirement was enacted. Most of the problems associated with anything new are pretty much behind us. Our system is now working, not only working but accepted by the people in the profession or working towards becoming a part of the profession. Our system is not only accepted within our state but other states are patterning their course on Montana.

Regulation is never desirable. When quality becomes questionable, standards become required. Before any change is made to established standards, two questions must first be answered: (1) Do we want to raise or lower our standards and (2) Why?

Proposed Amendments to SB 450

These amendments are intended to:

(1) limit the number of restaurant all-beverages licenses that may be issued each year in a quota area to 5% of all-beverages licenses issued in a quota area, rounded to the next highest whole number; and

(2) provide that restaurant all-beverages licenses may only be issued during the next four years.

1. Title, line 11.

Following: "ISSUED;"

Insert: "PROVIDING A TERMINATION DATE; AND"

2. Page 2, line 23.

Following: "(5)"

Strike: "The"

Insert: "Except as provided in subsection (7) the"

3. Page 3, line 12.

Following: line 11

Insert: "(7) The number of restaurant all-beverages licenses that the department may issue in a calendar year may not exceed 5% of the existing all-beverages licenses issued in the quota area in which the restaurant all-beverages license is to be located. For purposes of this subsection, all-beverages licenses include all-beverages licenses transferred into the quota area under 15-4-204(6). In the event 5% of the existing all-beverages licenses does not equal a whole number, the department shall round up to the next highest whole number.

(8) If there are more qualified applicants than the total number of restaurant all-beverages licenses that may be issued in a given year, the department shall conduct a drawing to determine which of the qualified applicants will be issued a restaurant all-beverages license.

(9) No additional restaurant all-beverages licenses may be issued after December 31, 1986 although restaurant all-beverages licenses issued before that date may be renewed."

Statement of Intent - SB 450

SB 450 requires the Department of Revenue to cancel an existing all-beverages license in an over-quota area whenever a new restaurant all-beverages license is issued. It is the intent of the legislature that the Department of Revenue notify the owners of all-beverages licenses in over-quota areas of the existence of this act and compile a list of all-beverages licensees who may be willing to cancel their all-beverages license for \$40,000. The Department of Revenue shall then make this list available to prospective applicants for a restaurant all-beverages license. The purpose of this list is to aid both the prospective applicant and the all-beverages licensees wishing to have their license canceled. The prospective applicant need not, however, use the list and the license of an all-beverages licensee who is not on the list may be canceled in conjunction with the issuance of a restaurant all-beverages license. An all-beverages licensee who chooses to be included on the list is not committed to cancel his all-beverages license and may decline such an offer.

SB 450 also requires the Department of Revenue to conduct a drawing in the event that the number of applicants exceeds the number of restaurant all-beverages licenses that may be issued in a calendar year. It is the intent of the legislature that the Department of Revenue shall determine if the applicant is otherwise qualified and conduct a drawing of all qualified applicants as quickly as possible to expedite the issuance of restaurant all-beverages licenses.

MONTANA



Tavern Association

Affiliated and Associated with the NLBA

STATE HEADQUARTERS / 7 EDWARDS / LIVESTOCK BLDG. / P. O. BOX 851

HELENA, MONTANA 59624-0851 / PHONE 406-442-5040

S U M M A R Y

SECURED PARTIES ON LICENSESAll Beverage Licenses

Financial Institutions	462
Individuals	1,013
Small Business Adm.	28
Other	<u>2</u>
	1,505

Beer - Beer/Wine Licenses

Financial Institutions	102
Individuals	159
Small Business Adm.	<u>8</u>
	269

Total Liens	1,774
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FIN = FINANCIAL INSTITUTIONS
 IND = INDIVIDUALS
 SBA = SMALL BUSINESS ADM.
 OTH = OTHER (USDA, ETC.)

SECURED PARTIES ON LICENSES

SOURCE: MONTANA DEPT. OF REVENUE
 LIQUOR DIVISION - 3/8/83

All-Beverage

	All-Beverage			Beer - Beer/Wine			County Total		
	Fin	Ind	SBA	Total	Fin	Ind	SBA	0th	Total
1 - Silver Bow	14	44	2	60			2		62
2 - Cascade	50	73	1	124			6	12	142
3 - Yellowstone	23	51		74			27	19	120
4 - Missoula	37	86	1	124			8	20	152
5 - Lewis & Clark	36	51	8	95			8	6	111
6 - Gallatin	26	37	1	64			12	8	85
7 - Flathead	37	72		109			8	15	133
8 - Fergus	6	21	1	28			1	1	30
9 - Powder River			3	3					3
10 - Carbon	8	29		37			1	1	38
11 - Phillips	7	4	1	12			1	1	14
12 - Hill	16	9		25			3		28
13 - Ravalli	5	38		43			1	9	53
14 - Custer	8	12		20			3	1	24
15 - Lake		9	44	54			3	5	63
16 - Dawson	3	5		8			1	2	11
17 - Roosevelt	12	11	1	24			1		25
18 - Beaverhead	8	22		30			1	4	35
19 - Chouteau	3	14		17			1		18
20 - Valley	9	19		28			4	4	32
21 - Toole	3	13		16			3		19
22 - Big Horn	6	10	1	17			2	3	22
23 - Musselshell	4	3		7					7
24 - Blaine	4	11		15					15
25 - Madison	7	15	1	23			1	3	27

	County Total	All Beverage				Beer - Beer/Wine				County Total				
		Fin	Ind	SBA	0th	Total	Fin	Ind	SBA	0th	Total	Fin	Ind	SBA
26 - Pondera	4	7	1	12		2	1			3		3	15	
27 - Richland	3	18	1	22		3	2			5		5	27	
28 - Powell	2	14		16		1				1		1	17	
29 - Rosebud	3	15		18		1				1		1	19	
30 - Deer Lodge	12	11	1	24		1				1		1	25	
31 - Teton	4	14		18		2	1			3		3	21	
32 - Stillwater	5	18		23		5				5		5	28	
33 - Treasure	1	1		2								2	2	
34 - Sheridan	6	4		10		2				2		2	12	
35 - Sanders	1	26		27		5				5		5	32	
36 - Judith Basin	2	7		9						1		1	10	
37 - Daniels	4	4		8								8	8	
38 - Glacier	8	3	2	13									14	
39 - Fallon	3	5		8								8	8	
40 - Sweet Grass	4	7	1	12		1				1		1	13	
41 - McCone	3	2		5						1		2	7	
42 - Carter	1	5		6									6	
43 - Broadwater	5	7		12		1				2		2	14	
44 - Wheatland	6			6		1				1		1	7	
45 - Prairie	5			5		5							5	
46 - Granite	7	13	2	22						2		2	24	
47 - Meagher	13			13						1		1	14	
48 - Liberty	1	8		9								9	9	
49 - Park	18	41		59		1				1		2	61	
50 - Garfield	1	3		4									4	
51 - Jefferson	6	13		19						1		1	20	
52 - Wibaux	1	3		4									4	
53 - Golden Valley	2			2									2	
54 - Mineral	5	15		20									20	
55 - Petroleum													0	
56 - Lincoln	11	26	3	40		4	13					17	57	
	462	1013	28	1505		102	159	8		269			1774	

March 17, 1983

TO: Chairman Jerry Metcalf and Members of the
House Business & Industry Committee

FROM: Paul Caruso, President, 1st Security Bank, Helena, Montana.

STATEMENT IN OPPOSITION TO SB450

SB450 creates a financial nightmare...not only for the licensees involved, but for the over 1700 individuals, financial and other lending institutions that have relied upon the decisions by the Montana Supreme Court, holding licenses to have property rights:

Stallinger v. Goss, 121 Mont. 437 (1948), p. 438:

"A retail liquor license is saleable, and is personal property of value and subject to attachment."

This was later affirmed in:

Teurherm v. Schmaing, 121 Mont. 136 (1979, p. 143:

"* * * a liquor license has come to have the quality of property, with an actual pecuniary value far in excess of the license fee exacted."

Included in the exhibits presented to this Committee are letters from banks which will support my testimony.

In these same exhibits you will find a detailed account of the various types of loans that have been extended to holders of all beverage licenses, as well as those for beer and beer/wine licenses. I also have available a print-out from the Department of Revenue, listing the individual secured parties and the licenses upon which they hold liens. You are welcome to inspect this print-out to check the record upon which this summary was based, and to see those individuals in your own county who not only have used

their licensees as collateral, but those who hold liens against them.

In addition, current records of the Department of Revenue reveal that there are an average of 30 transfers of ownership of licenses each month. The new owners of these licenses, for the most part, have purchased an existing business and license and present them as collateral for the financing they seek in establishing their new businesses.

To change the rules of the game without consideration for these commitments, both on the part of the licensee and those who have relied upon the integrity of the State of Montana to protect property rights, is not equitable, nor fair, nor good public policy.

Paul Caruso, President
1st Security Bank
Helena, Montana



1st CITIZENS BANK of polson

213 1st STREET WEST / POLSON, MONTANA 59860

March 16, 1983

Jerry Metcalf
201 Vawter
Helena, Montana 59601

Dear Representative Metcalf,

It has been brought to my attention that there will be a hearing on Senate Bill # 450 on March 17, 1983. It is this bank's contention that if this bill were passed, it would not only have an adverse affect on tavern owners but would also seriously impair the collateral position of creditor's securing their loans with a mortgage against a liquor license. The increased supply of liquor licenses available will decrease the value of those already in existence.

In our community, as I am sure is the case throughout the nation, our local tavern owners are suffering through hard economic times. If this Bill were passed, I feel the increased competition would deteriorate the economic and financial position of tavern owners to even a lower level.

I would urge you to vote against this bill because of the adverse affects against mortgage holders of liquor licenses and unfair competition to present tavern owners.

Thank you.

Sincerely,

Rick E. Skates
Senior Vice President

RES:jd



St CItIZENS BAnk of polson

213 1st STREET WEST / POLSON, MONTANA 59860

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Thank you.

Sincerely,

Rick E. Skates
Senior Vice President

RES:jd

This is the official vote on I-94...November 2, 1982:

COUNTIES *First Congressional District	Precincts	Registration	Total Vote Cast	De	Initiative No. 94		COUNTY SEATS *First Congressional District	
					BEER AND WINE QUOTA SYSTEM			
					For	Against		
*Beaverhead	16	4672	3637		1099	2395	*Dillon	
Big Horn	18	6319	4980		1528	2702	Hardin	
Blaine	14	3527	2771		871	1763	Chinook	
*Broadwater	7	2116	1642		511	1047	*Townsend	
Carbon	20	5440	4429		1460	2768	Red Lodge	
Carter	13	1190	962		292	570	Ekalaka	
Cascade	51	37520	28106		9395	16803	Great Falls	
Chouteau	17	3837	3208		945	2146	Fort Benton	
Custer	15	7083	5421		1583	3111	Miles City	
Daniels	16	1785	1458		386	959	Scobey	
Dawson	10	6338	4824		1426	3214	Glendive	
*Deer Lodge	10	6625	5043		1892	2842	*Anaconda	
Fallon	6	2221	1826		439	1193	Baker	
Fergus	16	7747	6158		1877	3932	Lewistown	
*Flathead	34	28678	21516		8197	12622	*Kalispell	
*Gallatin	32	27685	18730		8352	9626	*Bozeman	
Garfield	8	1172	988		279	628	Jordan	
*Glacier	14	5225	3720		1248	2204	*Cut Bank	
Golden Valley	2	678	588		155	406	Ryegate	
*Granite	4	1660	1321		423	845	*Philipsburg	
Hill	24	10011	7691		2144	4531	Havre	
*Jefferson	10	3964	3121		1235	1759	*Boulder	
Judith Basin	11	1807	1492		407	1016	Stanford	
*Lake	28	10267	8178		2876	4988	*Polson	
*Lewis and Clark	40	27275	18966		8229	10084	*Helena	
*Liberty	4	1477	1220		328	801	*Chester	
*Lincoln	22	8786	6240		2427	3534	*Libby	
*Madison	6	3543	2850		916	1789	*Virginia City	
McCone	8	1671	1446		378	993	Circle	
*Meagher	5	1287	1059		339	651	*White Sulphur Springs	
*Mineral	6	2171	1566		612	868	*Superior	
*Missoula	61	45902	29781		15567	12112	*Missoula	
Musselshell	10	2891	2470		763	1578	Roundup	
*Park	7	7588	6033		2150	3584	*Livingston	
Petroleum	1	378	288		84	194	Winnert	
Phillips	21	3109	2463		664	1606	Malta	
*Pondera	14	3883	3193		753	1909	*Conrad	
Powder River	11	1647	1394		464	822	Broadus	
*Powell	12	3611	2868		940	1730	*Deer Lodge	
Prairie	5	1196	1025		245	705	Terry	
*Ravalli	20	13477	10008		3764	5848	*Hamilton	
Richland	17	6125	4379		1245	2883	Sidney	
Roosevelt	20	4897	3559		1112	2177	Wolf Point	
Rosebud	14	6244	4163		1491	2480	Forsyth	
*Sanders	14	4951	3848		1446	2148	*Thompson Falls	
Sheridan	16	3221	2576		776	1601	Plentywood	
*Silver Bow	34	21430	16576		6629	9126	*Butte	
Stillwater	9	3518	2895		924	1800	Columbus	
Sweet Grass	4	2058	1701		514	1093	Big Timber	
Teton	10	3921	3256		927	2167	Choteau	
*Toole	19	3478	2752		820	1778	*Shelby	
Treasure	5	699	603		165	408	Hysham	
Valley	23	6041	4674		1412	2819	Glasgow	
Wheatland	5	1436	1113		359	712	Harlowton	
Wibaux	3	891	691		177	347	Wibaux	
Yellowstone	88	59519	40616		15658	18307	Billings	
TOTALS	929	445888	328082		121078	182724		

74% Voter Turnout