

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
March 24, 1983

The meeting of the Local Government Committee held on March 24, 1983, at 2:45 p.m. in Room 224A of the Capitol Building was called to order by Chairman Kathleen McBride. All members were present except Reps. Keenan, Neuman, Sands, and Switzer, who were absent.

EXECUTIVE SESSION

SENATE BILL 439

SEN. HAGER, sponsor. This bill is an act to authorize counties to enact ordinances defining areas where alcoholic beverages may or may not be sold; removing the prohibition against the issuance of a retail alcoholic beverage license to a business located within 600 feet of a school or church.

CHAIRMAN McBRIDE: We found out that REP. FABREGA'S bill in the Senate has never had a hearing. We decided to go ahead and amend REP. FABREGA'S bill to SENATOR HAGER'S bill. LEE HEIMAN will discuss the amendments (EXHIBIT 1).

LEE HEIMAN: I took REP. FABREGA'S bill, added Amendment 5 as section 1 and amended the title accordingly. We will have to strip the amendments we made previously.

REP. KITSELMAN: Moved to RECONSIDER our action to TABLE SENATE BILL 439.

The motion was voted on and PASSED with REP. WALLIN voting no.

REP. DARKO: Moved that the previous amendments BE STRIPPED from SENATE BILL 439.

The motion was voted on and PASSED with REP. WALLIN voting no.

REP. DARKO: Moved that these amendments be accepted.

CHAIRMAN McBRIDE: I have run these amendments by SENATOR HAGER and REP. FABREGA. Neither one had any problem with them. The major thing that SENATOR HAGER wanted to make sure was that local governments could eliminate the 600 foot rule if they wanted to.

REP. HANSEN: Wasn't the reason for previous action--we wanted the loophole between the time the bill was passed and the county setting up some rules--we felt that should stay in there.

CHAIRMAN McBRIDE: The way the bill is without the amendments, unless the local government takes affirmative action, there is no 600 foot rule.

Page 2

Minutes of the Meeting of the Local Government Committee
March 24, 1983

The motion to accept the amendments was voted on and PASSED with REP. WALLIN voting no.

REP. HAND: Moved that SENATE BILL 439 BE CONCURRED IN AS AMENDED.

LEE HEIMAN: What the bill says--there is a 600 foot limit. A local government may reduce or eliminate that 600 foot limit as a general law. Unless they do something affirmative, there is a 600 foot limit.

The motion was voted on and PASSED with REP. WALLIN voting no.

REP. FABREGA will carry the bill in the House.

The meeting adjourned at 3 p.m.

Kathleen McBride

CHAIRMAN KATHLEEN McBRIDE

Geri Brunatt

Secretary

AMEND SENATE BILL 439

1. Title, line 7.
Following: line 6
Insert: ", CITIES, AND TOWNS"

2. Title, line 8.
Following: "SOLD"
Strike: "; REMOVING"
Insert: "BY VARYING THE"

3. Title, line 11.
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 16-3-306 AND"
Following: "MCA;"
Strike: "AND REPEALING SECTION"

4. Title, line 12.
Strike: line 12 in its entirety

5. Page 1.
Following: line 14
Insert: "Section 1. Section 16-3-306, MCA, is amended to read:
"16-3-306. Proximity to churches and schools
restricted. (1) Except as provided in subsections (2) and,
(3), and (4), no retail license may be issued pursuant to this
code to any business or enterprise whose premises are within 600
feet of and on the same street as a building used
exclusively as a church, synagogue, or other place of
worship or as a school other than a commercially operated or
postsecondary school. This distance shall be measured in a
straight line from the center of the nearest entrance of the
place of worship or school to the nearest entrance of the
licensee's premises. This section is a limitation upon the
department's licensing authority.

(2) However, the department may renew a license for any
establishment located in violation of this section if the
licensee does not relocate his entrances any closer than the
existing entrances and if the establishment:

(a) was located on the site before the place of
worship or school opened; or

(b) was located in a bona fide hotel, restaurant, or
fraternal organization building at the site since January 1,
1937.

(3) Subsection (1) does not apply to licenses for the sale
of beer, table wine, or both in the original package for
off-premises consumption.

(4) The governing body of a county, for that area of the
county not within the corporate limits of a city or town, or
the governing body of an incorporated city or town may
provide general exceptions that would reduce or eliminate the
600-foot rule in subsection (1). The exception must be adopted
by ordinance, except if a county does not have general purpose

ordinance making powers it must be adopted by resolution. The ordinance or resolution must specify the reason why an exception is necessary and the distance in feet that applies within the county or the city or town limits."

Renumber: subsequent section

6. Page 1, line 16.

Following: "(1)"

Strike: "The"

Insert: "As provided in 16-3-306, the"

6. Page 1, line 18.

Following: "counties"

Insert: "not within the limits of a city or town"

7. Page 1.

Following: line 22

Insert: "(3) An ordinance as used in subsection (1) means a resolution if a county does not have the power to enact general purpose ordinances."

8. Page 1, lines 23 and 24.

Strike: section 2 in its entirety