

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 31, 1983

The Business and Industry Committee met in Executive Session on January 31, 1983, at 10:30 a.m. The meeting was called to order by Chairman Allen Kolstad in Room 404, State Capitol.

ACTION ON SENATE BILL 62: Senator Kolstad informed the Committee that on Friday, January 28, 1983, we adopted the proposed amendments to Senate Bill 62. However, he asked that Mr. Hefflefinger respond to the amendments.

Mr. Hefflefinger pointed out that when the prohibition on family members were introduced in the bill, these originated with Senator Turnage as the sponsor of the bill. As to the amendments from the Department, you have taken action on that and they are satisfied with them. Mr. Tippy, on behalf of the Wholesalers Association, has requested that subsection 4 be deleted from the bill. They still maintain that the clear intent of the law is to preclude a brewery from having a financial interest in a wholesaler in the State of Montana. It prohibits wholesalers and retailers having financial interest for the same type of reasons. As for family ownership between wholesalerships they have a neutral position on that. They would have a serious problem of deleting section 4 from this bill.

Roger Tippy stated he put his position forth in the letter that was distributed to the committee members. The amendment leaves existing law where it is. They did not know it would cause problems, however, he would like to dispute it with them.

Senator Regan asked Mike Garrity, Attorney, to talk about the legal ramifications. Mr. Garrity stated that subsection 4 is the amendment introduced by the Department and does not change Montana law. It is basically the same test that was applied to wholesaler applicants in the past. If the Committee would look at the first lines on page 3, that was struck in the proposed amendments and wholesalers were dealt with in subsection 4. If subsection 4 is deleted you have no criteria for a wholesaler.

Senator Kolstad asked Mr. Tippy if he agreed with that statement. Mr. Tippy stated no. Other sections of the code do provide the information on an interest in a retailer and do set forth other requirements.

Senator Regan asked them to go to another room and come to a compromise. Mr. Garrity stated they had already discussed these amendments privately. It seems that the other provisions of the code are not favorable. As Mr. Turnage has indicated, they have problems with subsection 4 in that it addresses affiliation. He has problems with that language. As an attorney he thinks there could have been some better terminology. That was existing language and the Department did not wish to change that language.

Senator Regan asked if that language would be sufficient. Mr. Tippy stated no he wanted the amendments.

Senator Gage asked if we leave some of the wording in, it does not particularly affect if they are affiliated with a retailer or manufacturer. Would that work? Mr. Garrity stated that if subsection (ii) would be removed completely it would open the door for breweries holding wholesaler licenses.

Senator Goodover stated that the sponsor of the bill, Senator Turnage, is here now. Do you have any comments on the amendments that were presented by Roger Tippy. Senator Turnage stated he had not heard what the Department had to say. There was not any intent in the bill to disadvantage the wholesalers. The thought behind the bill was to cure the family restriction on all beverage licenses.

Senator Goodover asked Senator Turnage do you feel that the material on page 3 covers the wholesaler situation? Those were the amendments put in by the Department. Senator Turnage stated he didn't know, he wanted to hear what the attorney, Mr. Garrity, had to say before he arrived.

Mr. Garrity stated if subsection 4 would be deleted there would be no criteria for a wholesaler applicant. There would not be the criteria that is now found within the law. That is the difficulty the Department sees.

Senator Turnage asked what about the family? Mr. Garrity stated the Department has to keep the three entities distinct and apart. The Department still favors that legislative intent to separate the entities. They want to prevent tied house from occurring. Senator Turnage stated he finds it difficult to disenfranchise them because they are related to someone.

Senator Goodover asked if the amendments by Roger Tippy does not run counter to your wishes? Senator Turnage stated the complaint of the Department would be no guidelines. His concern is the immediate family. He doesn't agree with either Roger Tippy or the Department.

Senator Regan made a motion that proposed amendments 1-6 Be Adopted and that we deal with 7 separately.

Senator Goodover made a substitute motion that the Committee reconsider action in adopting the proposed amendments to Senate Bill 62. Senator Christiaens seconded the motion. The Committee voted unanimously, by voice vote, with the exception of Senator Dover who was not present at the time the vote was taken, that the Committee reconsider its action in adopting the proposed amendments on Senate Bill 62.

Senator Regan made a substitute motion that the proposed amendments 1-6 Be Adopted. Senator Christiaens seconded the motion. The Committee voted unanimously, by voice vote, with the exception of Senator Dover who was not present at the time the vote was taken, that the proposed amendments to SENATE BILL 62 BE ADOPTED.

Senator Gage asked Mr. Hefflefinger in considering licensing now under subsection 4 do you now consider a person who is a felon or his business ability or that kind of thing? Mr. Hefflefinger stated yes, absolutely. Every potential applicant is screened.

Senator Gage asked do you feel you need guidelines? Mr. Hefflefinger stated yes.

Senator Regan made the motion that Senate Bill 62 As Amended Do Pass. Mr. Petesch, Staff Attorney, stated the committee might wish to insert language that neither the applicant nor any member of his immediate family has any interest. This would make it consistent with the rest of the bill.

Senator Regan withdrew her motion.

Senator Regan made a motion that the amendments suggested by Staff Attorney Petesch Be Adopted.

Senator Turnage stated first it is inappropriate to take away an individuals right because he is related to someone.

Senator Regan asked isn't that language now already in the bill presently? Mr. Garrity stated that immediate family is construed by the Department to be husband, wife or minor children or unemancipated children.

Senator Goodover asked what does that do to a child who is left a license because of death? Mr. Garrity stated in that case a minor child could not take a license but an estate could. They would need to appoint a trustee.

Mr. Tippy stated the problem he has outlined was not with (i), the big problem was with (ii) which deals with financing by a brewery or wholesaler. He is afraid that if you send this language down as the Department requested you are telling the people that the ladies place is in the home. He feels to take out (ii) would be the largest single improvement in the bill.

Senator Turnage stated he doesn't think it matters.

Senator Goodover made a substitute motion that the Committee amend the bill further by deleting subsection 4 (ii) and renumbering the remaining sections. Senator Lee seconded the motion. The Committee voted 7-2, by voice vote, Senators Regan and Fuller voting no, that the Committee delete subsection 4 (ii) in its entirety.

Senator Lee made the motion that Senate Bill 62 As Amended, Do Pass. Senator Severson seconded the motion. The Committee voted 8-1, by Roll Call Vote, with the exception of Senator Dover who was not present at the time the vote was taken, that SENATE BILL 62 AS AMENDED DO PASS. This Roll Call Vote is attached to the minutes.

ACTION ON SENATE BILL 249: Mr. Petesch, Staff Attorney, stated Senate Bill 249 also requires a Statement of Intent. (Exhibit No. 2)

He handed the Committee proposed amendments to Senate Bill 249. (Exhibit No. 3) As amended this bill would apply only to private parties not regulated lenders or retail sales. All that would be left in the bill is section 1 and on page 3, line 12, U. S. District would be changed to the 9th Federal Reserve District.

Senator Regan stated she did not know why they are raising it to 20%.

Senator Turnage stated he thinks this bill should be killed. It only applies now to section 1 and it has no application to regulated lenders or retail sales. The people that are going to be involved in section 1 will be those that are not going to be regulated by a governing institution. This is an individual on the street loaning to another individual on the street. He feels the interest rate is too high. He doesn't see any great requests coming from the citizens to pass this kind of law. There would be private lenders who would like it.

Senator Christiaens asked how was this affecting the private individual when we were looking at prime rate at 20%. Senator Turnage stated he had no statistics on that. Lending to banks is now around 8% and they have allowed them to use 12%. Senator Turnage stated he has seen where elderly widows thought they needed money. Usually the banks will discourage it because they want to mortgage their home. He knows there will be people who will lend that kind of money and take the mortgage on the widows home. This bill is just not necessary.

Senator Boylan made a motion that Senate Bill 249 Do Not Pass. Senator Gage seconded the motion. The Committee voted unanimously, by voice vote, with the exception of Senator Dover, who was not present at the time the vote was taken, that SENATE BILL 249 DO NOT PASS.

ACTION ON SENATE BILL 103: Senator Goodover made the motion that Senate Bill 103 Do Not Pass. Senator Fuller seconded the motion.

~~Senator~~ Lee made a substitute motion that Senate Bill 103 Do Pass. Senator Boylan seconded the motion.

Senator Gage stated the membership fee is required only on the initial policy. It is not required on renewals.

Senator Lee stated if this requirement is just a one-time membership fee this bill would not affect them.

Senator Gage stated only in that they could change their policy.

Senator Fuller stated he opposed the bill. He attempted to get out of Montana Farmers Union and Montana Farm Bureau why they wanted a membership fee. If they are in the business of selling insurance they should sell insurance. He is not saying that they are acting in bad faith but feels this bill should not pass.

Senator Kolstad stated all the fraternal organizations and brotherhoods are doing the same thing.

Senator Regan stated as a teacher she belongs to MEA and carries insurance. It is a fringe benefit of belonging to that group.

Senator Severson stated whatever the organization it has a service to its members. He received a call from a gentleman complaining about the membership rates. He used to carry grange insurance. On the basis of this whole thing of organizations providing this to their members as a service, he thinks they have the right to say that they must belong to the organization.

Senator Gage stated he agrees with what Senator Severson is saying.

Senator Lee stated they were not out and soliciting policies from the general public and the Commissioner made it mandatory that they do and that is the reason for the bill. It should not be the policy of this Committee how to run their business. They have guidelines on the books right now.

Senator Severson asked Staff Attorney Petesch if we had passed a similar bill last session? Mr. Petesch stated subsection 2 is what was passed last time.

Senator Severson stated he feels it is clear that they can do that. In the end they will have to go to court.

The Committee voted 6-3, by Roll Call Vote, with the exception of Senator Dover, who was not present at the time the vote was taken, that SENATE BILL 103 DO PASS.

ACTION ON SENATE BILL 105: Greg Petesch, Staff Attorney, stated the employment agency fee computation would change from annual fee to a projected fee which the agencies thought they were getting last time.

Senator Christiaens made a motion that Senate Bill 105 Do Not Pass. Senator Regan seconded the motion. The Committee voted 7-2, by Roll Call Vote, with the exception of Senator Dover who was not present at the time the vote was taken, that SENATE BILL 105 DO NOT PASS.

ACTION ON SENATE BILL 107: Greg Petesch, Staff Attorney, gave the committee proposed amendments for Senate Bill 107 which were the same amendments handed out by Senator Blaylock at the hearing on January 26, 1983. He stated two other amendments which should be in the bill. These are page 3, line 7, he indicated the drafter had indicated he did not intend to strike "physician" so would insert "physician or" and on page 6, line 16, following 31, the drafter made a mistake in the date, strike "1984" and insert "1983".

Senator Regan made a motion that the proposed amendments be placed with the amendments which Senator Blaylock suggested and that these Be Adopted. Senator Fuller seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendments to SENATE BILL 107 BE ADOPTED.

Senator Regan made the motion that Senate Bill 107 As Amended Do Pass.

Senator Boylan stated he wanted a full explanation of what the amendments would do to the whole bill.

Staff Attorney Petesch stated it would require the hospital or a private facility other than a hospital where you can have in-patient treatment for these conditions to be covered under insurance policies. A free standing facility is a health facility but not a hospital because they have limited treatment available.

Mr. Gerke stated he agreed with the analysis of the amendments.

Senator Fuller shared a Fact Sheet with the Committee. He stated there is some evidence that if there is an increase in rates it is very minimal.

Senator Blaylock stated he sponsored the bill because people with the alcoholic and drug addiction problems were not insured. He was hopeful that this bill has the potential of being helpful in this area.

Senator Gage stated his hangup is making it mandatory.

Senator Lee made the motion on page 1, line 21, we strike the word "have" and insert "select".

Senator Regan stated she didn't feel there would be any purpose to the bill then. The purpose of the bill is to have the insurance automatically cover this.

Senator Goodover asked that we hold the bill for further data.

Senator Lee made the motion again that the committee accept the amendment which he put forth. The fact that we make it mandatory that the insurance companies offer it is one thing. We asked if they were going to mandate that the people have this insurance and the reply was no it was only that the insurance company offer it.

Senator Boylan seconded the motion.

Senator Blaylock stated Senator Lee has struck on an important point. When people are going to take insurance you are never going to get the alcoholic to take it. He never admits that he is an alcoholic. When it finally strikes they don't have the coverage. He thinks this is a business that the state is in - making money by selling the booze. He feels that we owe the alcoholics something.

Senator Fuller made a substitute motion that we delay action on this bill until Friday. Senator Regan seconded the motion.

The Committee voted unanimously by voice vote, to adopt this motion.

ACTION ON SENATE BILL 84: Senator Goodover stated they have not met in the subcommittee with the House as yet.

Senator Lee offered some proposed amendments. (Exhibit No. 5) He stated he has been talking with the house movers and the members of the utilities. This separates the issues of the prefab homes which are built with the intention of being moved. The only opposition they had was from the REA's. They felt this was unconstitutional and would affect the bill.

Senator Lee made a motion that the proposed amendments Be Adopted. He feels that these amendments would not have anything to do with the compromise that they are going to meet on with the House subcommittee. These amendments would strengthen the intent of the bill.

Senator Goodover stated whoever brought you the amendments should have brought them to me, as Chairman.

Senator Lee stated he did not realize as a member of this committee he needed to have anyone look over his shoulder. These are his amendments. Secondly, as Chairman of the subcommittee, he should have scheduled a time for all to get together.

Senator Goodover stated we only got the charge Friday.

Senator Regan moved that the amendments be given to the subcommittee to use as a possible compromise that might be reached. Senator Severson seconded the motion.

The Committee voted unanimously by voice vote that the amendments be given to the subcommittee.

ADJOURN: There being no further business, the meeting adjourned at 11:55 a.m.


ALLEN C. KOLSTAD, CHAIRMAN

STANDING COMMITTEE REPORT

.....January 31, 1983 19.....

MR.President.....

We, your committee onBusiness and Industry.....

having had under considerationSenate..... Bill No.62.....

Respectfully report as follows: ThatSenate..... Bill No.62.....

Introduced copy, be amended as follows:

1. Page 1, line 23.

Following: "has"

Strike: "does"

Insert: "will"

2. Page 1, line 24.

Following: "in"

Strike: "any other"

Insert: "more than one"

3. Page 2, line 2.

Following: "family"

Insert: "or any member of his immediate family"

DOPASS

AK

January 31, 1983

19

4. Page 3, line 8.

Following: "has"

Strike: "does"

Insert: "will"

5. Page 3, line 9.

Following: "in"

Strike: "any other"

Insert: "more than one"

6. Page 3, line 12.

Following: "family"

Insert: "or any member of his immediate family"

7. Page 4, line 17

Following: line 16

Strike: subsection (4)(a)(ii) in its entirety

Renumber: subsequent subsections

AND AS AMENDED

DO PASS

AC

STANDING COMMITTEE REPORT

January 31, 19 83...

MR. **President**

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

having had under consideration **SENATE** Bill No. **103**

Respectfully report as follows: That **SENATE** Bill No. **103**

DO PASS

A.C.

STANDING COMMITTEE REPORT

January 31 19 83

MR. **President**

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

having had under consideration **(CHRISTIAENS)** **SENATE** **105** Bill No.

Respectfully report as follows: That **SENATE** **105** Bill No.

~~XXXXXX~~ **DO NOT PASS**

A.C.

STANDING COMMITTEE REPORT

January 31

1983

President

MR.

BUSINESS AND INDUSTRY

We, your committee on

(TURNAGE)

SENATE

249

having had under consideration Bill No.

SENATE

249

Respectfully report as follows: That Bill No.

~~XXXXXX~~
~~DO NOT PASS~~

DO NOT PASS

A.C.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 1/31/83 Senate Bill No. 62 Time

| NAME | YES | NO |
|----------------------------|-----|----|
| PAUL F. BOYLAN | ✓ | |
| B. F. CHRIS CHRISTIAENS | ✓ | |
| HAROLD L. DOVER | | |
| DAVID FULLER | ✓ | |
| DELWYN GAGE | ✓ | |
| PAT M. GOODOVER | ✓ | |
| GARY P. LEE, VICE CHAIRMAN | ✓ | |
| PAT REGAN | | ✓ |
| PAT M. SEVERSON | ✓ | |
| ALLEN C. KOLSTAD, CHAIRMAN | ✓ | |
| | | |
| | | |

Mimi Fancher
Secretary

ALLEN C. KOLSTAD
Chairman

Motion: No Pass.

(Include enough information on motion -- put with yellow copy of committee report.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 1/31/83 Senate Bill No. 103 Time _____

| NAME | YES | NO |
|----------------------------|-----|----|
| PAUL F. BOYLAN | ✓ | |
| B. F. CHRIS CHRISTIAENS | ✓ | |
| HAROLD L. DOVER | | |
| DAVID FULLER | | ✓ |
| DELWYN GAGE | | ✓ |
| PAT M. GOODOVER | | ✓ |
| GARY P. LEE, VICE CHAIRMAN | ✓ | |
| PAT REGAN | ✓ | |
| PAT M. SEVERSON | ✓ | |
| ALLEN C. KOLSTAD, CHAIRMAN | ✓ | |
| | | |
| | | |

Mimi Fancher
Secretary

ALLEN C. KOLSTAD
Chairman

Motion: Do Pass

(Include enough information on motion -- put with yellow copy of committee report.)

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 1/31/83 Senate Bill No. 105 Time _____

| NAME | YES | NO |
|----------------------------|-----|----|
| PAUL F. BOYLAN | | ✓ |
| B. F. CHRIS CHRISTIAENS | ✓ | |
| HAROLD L. DOVER | | |
| DAVID FULLER | ✓ | |
| DELWYN GAGE | ✓ | |
| PAT M. GOODOVER | ✓ | |
| GARY P. LEE, VICE CHAIRMAN | ✓ | |
| PAT REGAN | ✓ | |
| PAT M. SEVERSON | ✓ | |
| ALLEN C. KOLSTAD, CHAIRMAN | | ✓ |
| | | |
| | | |

Mimi Fancher
Secretary

ALLEN C. KOLSTAD
Chairman

Motion: Do Not Pass

(Include enough information on motion -- put with yellow copy of committee report.)

Senate Bill 62, Introduced copy, be amended as follows:

1. Page 1, line 23.

Following: "has"

Strike: "does"

Insert: "will"

2. Page 1, line 24.

Following: "in"

Strike: "any other"

Insert: "more than one"

3. Page 2, line 2.

Following: "family"

Insert: "or any member of his immediate family"

4. Page 3, line 8.

Following: "has"

Strike: "does"

Insert: "will"

5. Page 3, line 9.

Following: "in"

Strike: "any other"

Insert: "more than one"

6. Page 3, line 12.

Following: "family"

Insert: "or any member of his immediate family"

7. Page 4, line 8.

Following: line 7

Strike: subsection 4 in its entirety

Re-number: subsequent subsections

8. Page 5, line 14.

Following: "(2)(b)"

Strike: "7"

Following: "and"

Insert: "and"

Following: "(3)(b)"

Strike: ", and (4)(b)"

Statement of Intent

SB 249

A statement of intent is required for this bill because it gives the department of commerce the authority to adjust usury limits upward by rules. The legislature intends that when the prevailing prime interest rate used by banks throughout the Ninth Federal Reserve District as determined by the department after a survey is greater than 20%, the department may increase the rate upward to a level not more than 2% above the prime rate. The legislature intends that the department exercise discretion in making this adjustment and do so only when it determines that the increase of prime will continue long enough to warrant the increase.

Proposed Amendment to SB 249

1. Title, line 5.

Following: "LIMITS"

Insert: "FOR PRIVATE PARTIES"

2. Title, line 7.

Following: "AMENDING"

Strike: "SECTIONS"

Insert: "SECTION"

Following: "31-1-107,"

Strike: remainder of line 7 through "32-3-601," on line 8

3. Page 2, line 12.

Following: "throughout the"

Strike: "United States"

Insert: "Ninth Federal Reserve District"

4. Page 2, line 20.

Following: line 19

Strike: sections 2 through 6 in their entirety

Renumber: subsequent sections

5. Page 9, line 20.

Following: line 19

Insert: "Section 3. Coordination instruction. If HB 64 is passed and approved, including section 1 which removes the termination provision of chapter 275, L. 1981, a subsection (4) shall be added to [Section 1] of this bill which will read "(4) The provisions of this section do not apply to regulated lenders as defined in 31-1-111.""

Renumber: subsequent section.

PROPOSED AMENDMENTS FOR SB 107

Page 2, line 2.
Following: "hospital"
Insert: or free standing inpatient facility

Page 2, line 5.
Following: "a"
Strike: hospital

Page 3, line 7.
Following: "chemical"
Strike: dependence
Insert: dependency

Page 3, line 12.
Following: "licensed,"
Strike: certified,

Page 3, line 13.
Following: "the"
Insert: alcohol authority of the

Page 4, line 20.
Following: "basic"
Strike: hospital
Insert: inpatient

Page 5, line 3.
Following: "inpatient"
Strike: hospital

Page 5, line 7.
Following: "inpatient"
Strike: hospital

Page 5, line 9.
Following: "inpatient"
Strike: hospital

AMENDMENTS TO SB 84

1. Title, line 6.
Following: "STRUCTURES"
Insert: "BUILT WITH THE INTENTION OF BEING MOVED"
2. Title, line 10.
Following: "SAME;"
Insert: "PROVIDING THAT WHERE HOUSES, BUILDINGS, DERRICKS,
OR OTHER STRUCTURES WERE BUILT WITH THE INTENTION OF BEING
PERMANENT THE PERSON, FIRM, OR CORPORATION OWNING THE
WIRES OR POLES SHALL PAY THE NECESSARY AND REASONABLE
EXPENSES OF RAISING OR CUTTING THE WIRES TO FACILITATE THE
MOVEMENT;"
3. Page 2, line 12.
Following: line 11
Insert: "built with the intention of being moved"
4. Page 3, line 1.
Following: "by"
Insert: ": (a)"
5. Page 3, line 3.
Following: "structure"
Insert: ", where the house, building, derrick, or
structure was built with the intention of being moved; or
(b) by the person, firm, or corporation owning or
operating the wires, cables, or poles where the house,
building, derrick, or structure was built with the
intention of being permanently located where built."