

MINUTES FOR THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

March 28, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, March 28, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

ACTION ON SENATE BILL NO. 352: Rep. Brown moved that SB 352 BE NOT CONCURRED IN. The motion was seconded by Rep. Montayne. Rep. O'Hara moved a substitute motion that SB 352 BE CONCURRED IN. The motion was seconded by Rep. Hannah. Rep. Gould further made a substitute motion that SB 352 BE TABLED. The motion was seconded by Rep. Montayne. The motion failed 6-12. (See roll call vote.)

SB 352 was re-referred back to this committee because some of the legislators had certain problems with it on the floor. Rep. Mercer said there was a concern for children being taken on motorcycles against the will of the parents and anyone 18 years of age endangering the welfare of those younger children. This would also be effective in the case where a 17-year-old moves from his residence without the consent of his parents. Technically, anyone assisting him could be violating the law.

Rep. Hannah said that there are children ages 16 to 18 years living under the "supervision" of an adult who may not be interested in their well being. Rep. Brown responded by saying that the family situation may be at fault, and this bill would try to legally adjust what has been done. Rep. Addy suggested that by omitting the sexual implications, the bill may be easier to live with. It was Rep. Krueger's opinion that while there may be problems, passage of this bill will not solve the problems, and it is also inconsistent with earlier legislation that this committee passed.

Rep. Keyser stated that under 41-3-408 (limited emancipation) there is a set standard administered by court procedure. If a child wishes to be on his/her own after 16 years of age, this bill may present a conflict.

Rep. O'Hara withdrew his previous motion to pass the bill and instead moved that SB 352 BE TABLED. The motion was seconded by Rep. Brown. The question having been called, the tabling motion carried on a voice vote.

ACTION ON SENATE BILL NO. 322: Rep. Hammond moved that SB 322 BE CONCURRED IN. The motion was seconded by Rep. O'Hara and discussed.

Rep. Mercer said he has two concerns with this bill. First, has to do with the clarity of definition; secondly, there is no interest included for the claim -- only on the recovered amount. He moved to amend page 1, line 13 following "damages", insert "awarded". Rep. Keyser seconded the motion, and it carried unanimously. Rep. Keyser further moved that SB 322 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Gould and carried a majority voice vote. Rep. Spaeth will carry the bill on the floor of the House.

RECONSIDERATION OF SENATE BILL NO. 26: Rep. Brown moved to take SB 26 off the table. He proposed that the language be limited to lands located wholly within the exterior boundaries of the tribal government's reservation as established by an act of Congress. He said that he has worked extensively with various people concerned with this bill. Rep. Brown indicated that the amendment would be placed in the title of the bill and on pages 2 and 3. Although the bill, as amended, would not solve all of the problems, it may help to go part of the way. Discussion ensued on the reasons behind the bill, and Rep. Hannah said the tribal government would like to trade some of their lands with the state. Rep. Mercer said it may have a detrimental effect on the tax base where the lands are located in two different counties. There was some question of whether the lands would be taxable.

The question was called on the motion to take SB 26 off the table for purposes of reconsideration. The motion carried 10-8 (see roll call vote).

Rep. Brown moved that SB 26 BE CONCURRED IN. The motion was seconded by Rep. Darko. Rep. Brown further moved that the amendments proposed be adopted. The motion was seconded by Rep. Hannah. A copy of the proposed amendments was attached as Exhibit A. Rep. Brown said that the amendments would limit the legislation, but it will address the problems at the Fort Belknap Reservation. In response to Rep. Mercer's concern, Rep. Brown said that state school section or tribal lands do not generate funds for the school district and would not change the present system. The question was called on the motion to adopt the amendments, and it carried on a voice vote. Rep. Brown moved that SB 26 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Darko.

Rep. Hannah moved to amend page 2, line 15 following "AS" by striking "ESTABLISHED BY ACT OF CONGRESS" and inserting "recognized by the federal government". Furthermore, amend page 3, line 16 following "AS" strike "ESTABLISHED BY ACT OF CONGRESS" and insert "recognized by the federal government".

The motion was seconded by Rep. Brown and carried unanimously.

Rep. Brown moved that SB 26 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Darko. Rep. Rapp-Svrcek further moved to amend by striking section 3 in its entirety as he did not feel comfortable lifting the limitations referred to in this section. Rep. Keyser seconded the motion. Rep. Brown replied that the section only refers to tribal lands of more than 160 acres, and this amendment would limit the bill to the point of disabling it. Rep. Mercer spoke for equal treatment among those referred to in section 3, and he does not believe that one group of people should be treated differently than another group. Rep. Brown said the 26,000 Indians in this state do not have proper representation. Rep. Rapp-Svrcek withdrew his motion to amend.

Rep. Grady said this bill will also benefit the State of Montana with the larger parcel qualifier in it. Rep. Hannah wanted to know if any people may lose a portion of their ranches which are on reservations. Rep. Brown said the trade would have to be of comparable value or greater. With this amendment, it would have to be wholly within the reservation. There was discussion of a bidding war occurring for state land on the reservations. Rep. Cobb added that persons currently leasing should not have the first choice. The question was called on the BE CONCURRED IN AS AMENDED motion, and it carried 13-5. (See roll call vote.) Rep. Brown will carry this bill on the floor.

ACTION ON SENATE BILL NO. 319: Chairman Hannah informed the committee that SB 319 was originally heard in the House Education Committee. It deals with the appointment of a surrogate parent for disabled children. Mr. Earl Britton, from the Department of Special Services, Office of Public Instruction, appeared and addressed the committee. He referred to Public Law 94-142 which passed in 1975 and requires that all identified handicapped children must be provided a free and appropriate education. He said that in the evaluation and subsequent placement process, permission is required generally by a parent. In cases where there is a ward of the state or where parents cannot be identified, the youngsters need someone to speak for them who knows what services the educational system can provide them with. In order to comply, the legal staff advised that a surrogate parent attend these needs.

Rep. Keyser questioned Mr. Britton if he was correct in assuming that the school board of trustees or a governing authority of an institution could appoint a surrogate parent. According to what is in this bill, Mr. Britton relayed that the final approval rests with the courts. Rep. Hannah told the committee that the tuition costs for the

child is paid by the school district, and the Office of Public Instruction has never turned down any reimbursement costs requested by surrogate parents. Rep. Bergene questioned what capabilities the surrogate parent would need, and Mr. Britton answered that the O.P.I. would be providing a training program for administrators and special education directors to assist in the proper criteria and training of surrogate parents. Rep. Bergene suggested that an amendment to the bill indicate the training program and specific criteria. Rep. Rapp-Svrcek mentioned that surely the training program would cost more than the \$1,200 fiscal indicated. Mr. Britton responded by saying that there is another grant writing organization which is not a part of his department. Rep. Keyser asked what the rules would be for determining reimbursed expenses for a surrogate parent. Mr. Britton said that the parent would have to sit in on the child's educational planning meetings which would amount to three meetings per year.

Rep. Brown moved that SB 319 BE CONCURRED IN. The motion was seconded by Rep. Bergene. Rep. Hannah pointed out to Rep. Rapp-Svrcek that if the O.P.I. had been concerned with the cost of implementing this program, they would have testified before both this committee and the Education Committee expressing that particular concern. Bob Stocktaon did not indicate that the costs were a problem. The question was called on the motion, and it carried unanimously. The bill will be carried by Rep. Bergene. In response to Rep. Rapp-Svrcek, it was Rep. Hannah's opinion that a new fiscal note would not be required.

ACTION ON SENATE BILL NO. 449: Rep. Bergene moved that SB 449 BE CONCURRED IN. The motion was seconded by Rep. Darko. Rep. Bergene further moved the following amendments:

1. Title, line 6.  
Strike: "AUTHORIZING"  
Insert: "REQUIRING"
2. Page 5, line 6.  
Strike: "MAY"  
Insert: "shall"

Rep. Gould seconded the motion on the above amendments. Rep. Bergene explained that in her research, the states that have pioneered mandatory arrests are Oregon and Minnesota, and the mandatory arrest provision has made a large difference as the occurrences are two and one-half times greater without the law. Arrest and overnight incarceration seem to be extremely effective, and Rep. Bergene feels it should be included in the bill.

Rep. Mercer made a substitute motion to include Rep. Bergene's amendments in addition with amending the title,

line 6 following "IN" by inserting "CERTAIN". Furthermore, he moved to amend page 5, line 9 following "domestic abuse" strike "or aggravated" through "member," and insert "any time within a four hour period prior to the arrest." Rep. Keyser seconded the motion. Rep. Mercer wished to include in the motion another amendment which would occur on page 4, line 10 following "abuse" by striking "or aggravated" through "household member" on line 11.

Rep. Miles spoke in favor of the above amendment because she feels it may alleviate some problem areas for police officers.

Rep. Addy feels this bill is a terrible bill. While he does not condone domestic violence, this bill implies that the state better knows how to deal with an individual's life than does the individual. He feels that by passing this bill, the legislature is placing pressure into the system that it was never designed to tolerate. He feels that it would take discretion away from the criminal justice system. Rep. Montayne responded by saying that those people who testified on this bill were angry, and they have a right to be angry as victims of domestic abuse.

Rep. Krueger said that he doesn't think that by placing the mandatory arrest provision in the law it is necessarily accomplishing the goal it was intended to. He feels that a little independent judgment should be left with police officers. Rep. Hannah said he could not support the amendment unless the arrest stays at an option of the police officers. Following further discussion, the question was called on the above amendments, and the motion carried 12-6. (See roll call vote.)

Rep. Addy moved to amend the title, line 12 following "MCA" by inserting "; AND PROVIDING A TERMINATION DATE"; furthermore, he moved to amend page 6, following line 16 by inserting: "NEW SECTION. Section 8. Termination date. This act terminates July 1, 1987." The motion was seconded by Rep. Cobb and carried on a voice vote.

Rep. Keyser moved to amend page 2, beginning on line 23 by reinserting the stricken new section in its entirety. The motion was seconded by Rep. Eudaily and failed on a voice vote.

Rep. Gould moved that SB 449 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Hammond. Rep. Mercer further moved to amend page 3, line 6 following "community" by inserting "." and striking "and give the victim immediate notice of any legal rights and remedies available." The motion was seconded by Rep. O'Hara.

Rep. Rapp-Svrcek made a substitute motion to amend page 3, line 7 following "victim" by inserting "the following notice:"; furthermore, the remainder of the paragraph would be stricken. Rep. Mercer seconded the motion, and it carried on a voice vote.

Rep. Hammond moved that SB 449 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Gould. Rep. Mercer further moved to amend page 2, line 1 following "~~marriage~~" by striking "ADULT". The motion was seconded by Rep. Keyser. Rep. Cobb stated his objection to this amendment because he is against expanding the bill at this time. The question was called, and the motion failed 6-12. (See roll call vote.) Rep. Hammond moved that SB 449 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Bergene and carried 13-5. (See roll call vote.)

ACTION ON SENATE BILL NO. 446: Rep. Eudaily moved that SB 446 BE CONCURRED IN AS AMENDED. This bill was considered at yesterday's executive session. The committee researcher, Brenda Desmond prepared and submitted the amendments that had been actually adopted during the hearing. See Exhibit B hereto attached. After the committee reviewed the amendments, the question was called on Rep. Addy's motion to adopt amendment #4 of Exhibit B. The motion carried 11-5. Rep. Addy further moved to adopt amendment #1, 2, and 3 of Exhibit B. The motion carried 13-3. (See roll call vote.)

The question was called on Rep. Eudaily's prior motion, and it carried on a voice vote. Rep. Kitselman will carry the bill on the floor.

ADJOURN: Upon motion of Rep. Keyser, the meeting adjourned at 10:05 a.m.

  
\_\_\_\_\_  
REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/28/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

# STANDING COMMITTEE REPORT

March 28 19 35

page 1 of 2

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 26

THIRD reading copy ( Blue )  
color

## PERMITTING SALE OR EXCHANGE OF STATE LANDS TO MONTANA INDIAN TRIBES

Respectfully report as follows: That Senate Bill No. 26  
be amended as follows:

1. Title, lines 6 and 7.  
Following: "WITHIN"  
Strike: "OR ADJACENT TO"

2. Title, line 9.  
Following: "WITHIN"  
Strike: "OR ADJACENT TO"

3. Page 2, line 13.  
Following: "wholly"  
Strike: "or partially"

Following: "within"  
Strike: "or adjacent to"

DO PASS

(continued)



page 2 of 2  
SB 28

4. Page 2, line 15.

Following: "AS"

Strike: "ESTABLISHED BY ACT OF CONGRESS"

Insert: "recognized by the federal government"

5. Page 3, line 14.

Following: "wholly"

Strike: "or partially"

Following: "within"

Strike: "or adjacent to"

6. Page 3, line 16.

Following: "AS"

Strike: "ESTABLISHED BY ACT OF CONGRESS"

Insert: "recognized by the federal government"

AND AS AMENDED,  
BE CONCURRED IN

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985 BILL NO. SB 26 TIME 8:40 a.m.

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb		✓
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady		✓
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer		✓
Joan Miles	✓	
John Montayne		✓
Jesse O'Hara		✓
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Brown moved to reconsider action on SB 26. The  
motion carried 10-8.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985 BILL NO. SB 26 TIME 9:00 a.m.

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb		✓
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer		✓
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara		✓
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Brown moved that SB 26 BE CONCURRED IN AS AMENDED.

The motion was seconded by Rep. Darko and carried 13-5.

# STANDING COMMITTEE REPORT

March 24 19 85

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 319

Third reading copy ( Blue )  
color

**PROVIDING FOR APPOINTMENT OF A SURROGATE PARENT FOR HANDICAPPED  
CHILD TO REPRESENT CHILD IN DECISIONMAKING PROCESS**

Respectfully report as follows: That Senate Bill No. 319

**BE CONCURRED IN**  
**DOLPASS**

# STANDING COMMITTEE REPORT

..... March 28 ..... 19 85 .....

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

We, your committee on ..... **JUDICIARY** .....

having had under consideration ..... **SENATE** ..... Bill No. .... **322** .....

Third reading copy ( Blue )  
color

**ALLOWING INTEREST ON A TORT FROM PRESENTING WRITTEN CLAIM**

Respectfully report as follows: That ..... **Senate** ..... Bill No. .... **322** .....

be amended as follows:

1. Page 1, line 13.  
Following: "damages"  
Insert: "awarded"

**AND AS AMENDED,  
BE CONCURRED IN  
DO PASS**

# STANDING COMMITTEE REPORT

March 28

19 35

page 1 of 2

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 449

Third reading copy ( Blue )  
color

**CREATES CRIME OF DOMESTIC ABUSE; REQUIRES ARREST FOR  
ITS VIOLATION**

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

be amended as follows:

1. Title, line 6.

Strike: "AUTHORIZING"

Insert: "REQUIRING"

Following: "IN"

Insert: "CERTAIN"

2. Title, line 12.

Following: "MCA"

Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 3, line 7.

Following: "victim"

Strike: "immediate" through "with" on line 9.

4. Page 3, line 9.

Following: "following"

Strike: "statement"

Insert: "notice"

(continued)

page 2 of 2

5.

X. Page 4, line 10.

Following: "abuse"Strike: "or aggravated" through "household member" on line 11.

5. Page 5, line 6.

Strike: "MAY"

Insert: "shall"

7.

6. Page 5, line 9.

Following: "abuse"Strike: "or aggravated" through "member,"

7. Page 6, following line 16.

Insert: "NEW SECTION. Section 8. Termination date. This act terminates July 1, 1987."

AND AS AMENDED,  
BE CONCURRED IN

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985

BILL NO. SB 449

TIME 9:45

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Mercer moved a substitute motion which would include  
Rep. Bergene's amendments re-inserting the mandatory arrest provision  
in addition to a few additional amendments which is set forth in the  
minutes and standing committee report. The motion carried 12-6.



# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985

BILL NO. SB 449

TIME \_\_\_\_\_

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb		✓
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Mercer further moved to amend page 2, line 1

following "marriage7" by striking "ADULT". The motion was

seconded by Rep. Keyser and failed 6-12.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985 BILL NO. SB 449 TIME \_\_\_\_\_

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Hammond moved that SB 449 BE CONCURRED IN AS AMENDED.

The motion was seconded by Rep. Bergene and carried 13-5.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985 BILL NO. SB 352 TIME 8:20

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould	✓	
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer		✓
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara		✓
Bing Poff		✓
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Gould made a substitute motion that SB 352 BE TABLED.

The motion was seconded by Rep. Montayne and failed 6-12.

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# STANDING COMMITTEE REPORT

March 28

19 05

page 1 of 2

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 446

Third reading copy ( Blue )  
color

PROVIDES FOR THE OFFENSE OF UNLAWFUL APPROPRIATION OF  
RETAILER PROPERTY

Respectfully report as follows: That Senate Bill No. 446

Be amended as follows:

1. Title, line 7.

Following: "CARTS;"

Insert: "PROVIDING FOR CIVIL LIABILITY FOR UNLAWFUL APPROPRIATION  
OF RETAILER PROPERTY."

2. Page 1, line 12.

Following: "used in"

Strike: "[section 2]"

Insert: "[sections 2 and 3]"

3. Page 2, following line 17.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

~~DO PASS~~

(continued)

page 2 of 2

## 4. Page 3, following line 5.

Insert: "NEW SECTION. Section 3. Unlawful appropriation of retailer property - civil liability. (1) A person who, without the consent of the owner or his agent, removes a dairy case, egg basket, or shopping cart from the premises or parking area of a retail establishment with the intent to temporarily or permanently deprive the owner of such dairy case, egg basket, or shopping cart is liable to the owner in a civil action as provided in subsection (2). (2) The amount of damages awarded pursuant to subsection (1) shall be an amount equal to twice the value of the object removed. (3) Possession of a dairy case, egg basket, or shopping cart off the retail premises and parking area of the owner thereof if such property bears a registered name or mark establishes a disputable presumption in an action brought pursuant to subsection (1) that the person possessing the property has removed it in violation of subsection (1). (4) The remedy provided by this section may be pursued whether or not a criminal penalty is sought under [section 2] or any other statute providing a criminal penalty. (5) The definitions of terms defined in [section 1] apply to this section."

Renumber: subsequent sections

## 5. Page 3, line 21.

Strike: "3"

Insert: "4"

AND AS AMENDED,  
BE CONCURRED IN

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985 BILL NO. SB 446 TIME 10:00 a.m.

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb		✓
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould		
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Addy moved to adopt #4 of the proposed amendments  
handout (See Exhibit B herein attached). The motion was seconded,  
and the motion carried 11-5.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 28, 1985 BILL NO. SB 446 TIME 10:01 a.m.

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb		✓
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould		
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		
Tom Hannah (Chairman)	✓	

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Addy moved to adopt amendment #1, 2, and 3 of  
the proposed amendments handout (See Exhibit B). The motion was  
seconded and carried 13-3.

~~Proposed~~ Amendments to SB 26

1. Title, lines 6 and 7  
Following: "WITHIN"  
Strike: "OR ADJACENT TO"

2. Title, line 9  
Following: "WITHIN"  
Strike: "OR ADJACENT TO"

3. Page 2, line 13  
Following: "wholly"  
Strike: "or partially"

Following: "within"  
Strike: "or adjacent to"

5 ~~4~~. Page 3, line 14  
Following: "wholly"  
Strike: "or partially"

Following: "within"  
Strike: "or adjacent to"

→ 4. Page 2, line 15

Following: "AS"

Strike: "ESTABLISHED BY ACT  
OF CONGRESS"

Insert: "recognized by the  
federal government"

6, Page 3, line 16

Following: "AS"

Strike: "ESTABLISHED BY ACT  
OF CONGRESS"

Insert: "recognized by the federal government"



## Proposed Amendments to SB 446

1. Title, line 7.

Following: "CARTS;"

Insert: "PROVIDING FOR CIVIL LIABILITY FOR UNLAWFUL  
APPROPRIATION OF RETAILER PROPERTY"

2. Page 1, line 12.

Following: "used in"

Strike: "[section 2]"

Insert: "[sections 2 and 3]"

3. Page 2, following line 17.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

4. Page 3, following line 5.

Insert: "NEW SECTION. Section 3. Unlawful appropriation of  
retailer property - civil liability. (1) A person who,  
without the consent of the owner or his agent, removes a  
dairy case, egg basket, or shopping cart from the premises  
or parking area of a retail establishment with the intent to  
temporarily or permanently deprive the owner of such dairy  
case, egg basket, or shopping cart is liable to the owner in  
a civil action as provided in subsection (2).

(2) The amount of damages awarded pursuant to subsection  
(1) shall be an amount equal to twice the value of the  
object removed.

(3) Possession of a dairy case, egg basket, or shopping  
cart establishes a disputable presumption in an action  
brought pursuant to subsection (1) that the person  
possessing such dairy case, egg basket, or shopping cart has  
removed such object in violation of subsection (1).

(4) The remedy provided by this section may be pursued  
whether or not a criminal penalty is sought under [section  
2] or any other statute providing a criminal penalty."