

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 10, 1985

The second meeting of the Business & Industry Committee was called to order at 10 a.m. by Chairman Mike Halligan in Room 410 of the Capitol Building.

ROLL CALL: There were 9 members present with Senator Gage absent.

CONSIDERATION OF SENATE BILL 45: Senator Tom Towe, Senate District 46, was asked by the Department of Revenue and the Revenue Oversight Committee to introduce this bill. The bill addresses the situation of liquor licenses. At the present time there is no statutory authority for filing a lien with the Department of Revenue which is the agency that handles the transfer of liquor licenses. In the Uniform Commercial Code there is a provision that does authorize special treatment of liens if there is a special statute applying such as they do now for motor vehicles. There is a similar procedure for titles for liquor licenses but there is no procedure for endorsing those liens. This bill would give the Department the legal authority for endorsing liens on liquor licenses on the face of the liquor license itself. It further provides that no security interest is valid unless it is so endorsed on the face of the license. It would cover the legal gap which now exists.

PROPOSERS: Mike Garrity, Attorney from the Department of Revenue explained there is currently a void in Montana Law as to the procedures for recording security interests and mortgage interests on liens on Montana Alcoholic beverage licenses. He feels the bill would codify all the procedures for filing the security interests, mortgagee interests and lien interests on alcoholic beverage licenses and would make it much simpler for the public to know what those procedures are in the future.

Les Alke, from the Montana Bankers Association, testified in favor of this bill. (See Exhibit A)

OPPOSERS: There were no opponents to SB 45.

Questions from the committee were then called for.

Senator Goodover asked what form this be on the license itself. It was Senator Towe's understanding that it would be just as it exists now on motor vehicle licenses. Mr. Garrity stated that at the present time the names and

the rank are posted but the dollar amounts of the lien are not. Senator Boylan asked what they really had a lien on. In Montana, by statute, the alcoholic beverages licenses are personal property and are very valuable and the liens are attached to the certificate itself. Senator Halligan asked why if the court has stated that a license is personal property that Article 9 of the U.C.C. wouldn't already cover the filing requirements. Mr. Garrity explained that Article 9 does cover the filing requirements for security interests but for some reason the legislature has deemed it appropriate to have additional recording requirements for such things as motor vehicle and alcoholic beverages licenses. Mr. Garrity further explained that currently one must comply with both procedures and that this bill would hopefully make those procedures clear to the public. Senator Thayer asked if the Department of Revenue had thought of perhaps changing the section of the U.C.C. Act. Mr. Garrity stated that they had looked into this possibility and since these requirements are now in law they are seeking to codify these amendments as opposed to repealing them from the law. Senator Towe stated that at the present time there is a real possibility that if one does not file with the Department of Revenue they may not legally have a lien because the law is not clear. He felt the buyer might be better protected if this were on the license itself.

The hearing was closed on SB 45.

CONSIDERATION OF SENATE BILL 39: Senator Joe Mazurek, Senate District 23 was asked by the Dept. of Revenue and the Revenue Oversight Committee to present this bill to address the problem which now arises when a person sells a business on contract but holds the license itself. At the present time you can only have interest in one beverage license at a time. This bill would state that if there were a default that the seller as the licensee can go back and retake possession of this license for a limited period of 180 days during which time he can then try to find another buyer.

PROPONENTS: Mike Garrity, Attorney for the Department of Revenue, stated that current practice at their division is to comply with the provisions of Sec. 16-4-05 and to not deny any applicant an ownership interest in more than one all beverage license. Not the Department has to deny that application or treat it as pending until the applicant divests himself of interest in one of the all beverage licenses so that he can acquire only one ownership interest. Presently they have to leave the license in the name of the defaulting buyer and this presents a hardship and this means that creditors can come forward and attach liens on

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this license while the license is still in the name of the defaulting buyer.

OPPONENTS: There were no opponents to SB 39.

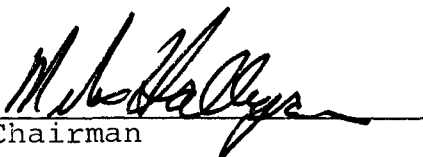
Questions from the committee were called for.

Senator Thayer asked about the reasoning for the single ownership by law and Mr. Garrity explained he felt that the intent of the legislature was to ensure that each person might have a right to have a beverage license and that there might not be a monopoly on beverage licenses. Senator Christiaens asked if the bill was actually extending the period of time from 90 to 180 days the time with which it would revert back. Mr. Garrity explained that if the license was not in use for 90 days then the applicant would have to apply for non-users status for this license and the Department grants this in 90-day increments. Chairman Halligan asked about what would happen if they could not get rid of the license in 180 days. Mr. Garrity stated that this could very well be that the title does not transfer until the end of the judicial action and they felt that this was a reasonable time frame.

Senator Mazurek stated in closing that while the person who formerly owned the license is trying to obtain transfer there is the possibility of other judgments or liens being filed against it in the time frame of 180 days.

The hearing was closed on SB 39.

The meeting was adjourned at 10:36 a.m.


Chairman

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Jan. 10, 1985

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
CHAIRMAN HALLIGAN	X		
V-CHRM. CHRISTIAENS	X		
SENATOR BOYLAN	X		
SENATOR FULLER	X		
SENATOR GAGE		X	
SENATOR GOODOVER	X		
SENATOR KOLSTAD	X		
SENATOR NEUMAN	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		

Each day attach to minutes.

NAME Les Aike

BILL No. SB 45

ADDRESS 1 Last Chance Gulch DATE 1/10/85

WHOM DO YOU REPRESENT Montana Bankers Ass'n

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Support in its entirety