

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 11, 1985

The third meeting of the Business & Industry Committee was called to order by Chairman Mike Halligan in Room 410 of the Capitol Building at 10:05 a.m.

ROLL CALL: All members present except Senator Gage.

CONSIDERATION OF SENATE BILL 40: Joe Mazurek, Senate District 23, is the sponsor of this bill. He was asked to introduce this bill at the request of the Revenue Oversight Committee. This bill would eliminate the need by the Department of Revenue to go to court to order the destruction of seized beverages. Currently the Department has to file a lawsuit in the county where beverages are confiscated and then issue a summons, etc. It would make this an administrative proceeding similar to proceedings on tax appeals and other matters. The intent is to allow the Department to initiate an administrative proceeding instead of proceeding through the courts.

PROPOSERS: Rick Day, Program Manager for the Department of Revenue stated this bill would allow the Department to destroy seized alcoholic beverages that are not resaleable and provide them with a procedure for doing so that is more efficient and would save them much valuable time. (See EXHIBIT 1) The handout he provided also gave some examples of a notice of hearing, reports which must be filled out, inventory of seized beverages, etc. that they now must do. They have had more and more contraband liquor to destroy and this streamlining would help speed up the process for the Department.

OPPOSERS: There were no opponents to SB 40.

The hearing was closed on Senate Bill 40.

DISPOSITION OF SENATE BILL 40: Senator Fuller moved that the committee give a DO PASS recommendation on SB 40. The motion was passed by the committee.

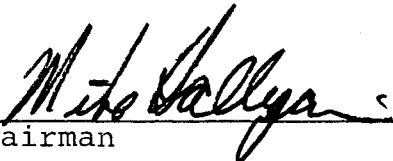
CONSIDERATION OF SENATE BILL 45: Mary McCue, Legislative Staff Attorney, told the committee she was concerned that in the U.C.C., Article 9, there is a provision that says when filing is required and then it sets out the exceptions such as with motor vehicles. She stated if the bill were going to provide that filing for a security interest on an alcoholic license is going to be only with the Department she felt the committee should consider amending this

bill to insert this. The committee will look at this bill more closely before acting upon it.

DISPOSITION OF SENATE BILL 39: Senator Christiaens made a motion that a DO PASS recommendation be given on Senate Bill 39. The motion carried with Senator Boylan voting no.

CONSIDERATION OF SENATE BILL 6: Senator Daniels was not able to be present so consideration will be moved to January 14, 1985.

The meeting was adjourned at 10:20 a.m.


Chairman

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-11-85

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
Chrm. Halligan	X		
V-Chrm. Christiaens	X		
Sen. Boylan	X		
Sen. Fuller	X		
Sen. Gage		X	
Sen. Goodover	X		
Sen. Kolstad	X		
Sen. Neuman	X		
Sen. Thayer	X		
Sen. Williams	X		

Each day attach to minutes.

DATE January 11, 1985

COMMITTEE ON SENATE BUSINESS & INDUSTRY

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

January 11

85

19.....

MR. PRESIDENT

Business & Industry

We, your committee on.....

Senate

39

having had under consideration.....

No.....

first

reading copy (**white**)
color

SECURED PARTY/LICENSEE OWNERSHIP IN OTHER ALL-BEVERAGES LICENSE

Senate

39

Respectfully report as follows: That.....

No.....

DO PASS

~~XXXXXXXXXX~~

Chairman.

STANDING COMMITTEE REPORT

January 11

85

19.....

MR. PRESIDENT

Business & Industry

We, your committee on.....

having had under consideration..... **Senate** **40**
No.....

first

reading copy (**white**)
color

RELATING TO THE RESALE OR DESTRUCTION OF SEIZED ALCOHOLIC BEVERAGES

Respectfully report as follows: That..... **Senate** **40**
No.....

DO PASS

~~XXXXXX~~

Chairman.

TESTIMONY OF RICK DAY, PROGRAM MANAGER
DEPARTMENT OF REVENUE, LEGAL & ENFORCEMENT DIVISION
ON SENATE BILL #40

"An Act Allowing The Forfeiture Of Seized Resaleable Alcoholic Beverages Through Administrative Procedures; Requiring The Department Of Revenue To Destroy Seized Alcoholic Beverages Unsuitable For Resale; Amending Sections 16-6-106 and 16-6-107, MCA."

Purpose: SB 40 would allow the Department of Revenue to clear title to resaleable alcoholic beverages through administrative procedures. The proposed legislation would also allow the Department to destroy seized alcoholic beverages it determines are not resaleable. The legislation is intended to provide a less burdensome means of processing seized alcoholic beverages and eliminate the need for time consuming district court actions.

1. The law now requires district court action in the county of seizure in each case concerning forfeiture of alcoholic beverages to the State of Montana. The proposed legislation would allow forfeiture of seized alcoholic beverages through administrative process.
 - a) The Department could use its attorney's time more efficiently. The administrative notices, pleadings and hearings, would be completed in Helena. This procedure should be less expensive. The process would still provide the protections found in MAPA:
 - 1) Notice
 - 2) Opportunity to be heard before a fair and impartial hearing examiner
 - 3) Final agency decision
 - 4) Appeal to district court
 - b) Administrative process forfeiture provisions would also save court time.
 - c) The Washington State Liquor Control Board recently used administrative procedure to take title to a large shipment of contraband liquor. Assistant Enforcement Chief, Gary Gilbert, felt the procedure was extremely successful. (Copy of WA notice attached.)
2. The legislation would provide the Department with a means to destroy alcoholic beverages that have been determined unsuitable

for resale. Categories of possible items considered unsuitable for resale:

- 1) Quantities too small to justify the cost of resale through state liquor stores;
 - 2) Seized alcoholic beverages which have not been subjected to quality control;
 - 3) Damaged, defective, or partial bottles
 - 4) Cases where the seized alcoholic beverages are beer (the Department is prohibited from selling beer);
 - 5) The Department's current inventory of seized alcoholic beverages (where seized alcoholic beverages were not processed because of the lack of legal counsel time and now cannot be resold due to length of time in storage).
3. The need for streamlined forfeiture and destruction provisions is demonstrated by a pending forfeiture of 173 cases of liquor and 246 cases of beer. There is an immediate need to destroy over 1200 bottles of wine and 100 bottles of liquor.
4. The need for this legislation has become apparent through the increasing amount of seized liquor in storage and the unavailability of manpower to file court actions.

ATTACHMENTS:

- (1) Copy of the Washington State Liquor Control Board Hearing Notice concerning forfeiture of contraband liquor.
- (2) Copy of an evidence receipt depicting an example of a small seizure of alcohol not suitable for resale.
- (3) Copy of an evidence receipt depicting accumulated seized liquor in storage.

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF THE
CONFISCATION OF A QUANTITY
OF CONTRABAND LIQUOR

) NO. 433-W

) NOTICE OF HEARING
)
)
)

TO: and

ANY PERSON, FIRM OR CORPORATION claiming any right,
title or interest in or to any part of the quantity
of liquor specified in the attachment hereto.

IN THE NAME OF THE WASHINGTON STATE LIQUOR CONTROL
BOARD, You are hereby notified that a hearing will be held at
the Liquor Control Board hearing room, North 111 Vista, Suite
3-D, Spokane, Washington, on the 2d day of March, 1984, at the
hour of 10:00 a.m., upon the Notice of Forfeiture of Contraband
Liquor, a copy of which is herewith attached and by reference
incorporated herein, specifically stating the issues involved.
As stated in said Notice of Forfeiture of Contraband Liquor,
the hearing will determine whether or not the liquor described
therein is contraband and subject to forfeiture.

DATED at Olympia, Washington, this 10th day of February,
1984.

WASHINGTON STATE
LIQUOR CONTROL BOARD

By 

James B. Strong
Administrative Law Judge
Office of Administrative Hearings

DEPARTMENT OF REVENUE
LEGAL & INVESTIGATION DIVISION
EVIDENCE RECEIPT & PROPERTY REPORT

(A) Check One:

☒ Evidence ☐ Recovered ☐ Found ☐ Stored

(B) Evidence No.

(C) Case No.

(D) VIOLATION:

(E) SUSPECT (Alleged Owner), ADDRESS & PHONE NO.

Name:

Address:

Phone No.

(F) Address or location property found or collected

TAKEN FROM

Time & Date

15 15 5-9-84

Person Receiving

Signature:

Item No.

Describe property:

QUANTITY

DESCRIPTION

CONDITION

1	1	100% Brandy 1/2 gal Bottle	mostly empty APPROX
2	1	Mr. Boston Rum 1/2 gal Bottle	2/3 full APPROX
3	1	Paper Vodka 1/2 gal Bottle	1/4 full APPROX
4	1	Mr. Boston Peppermint Schnapps 750ml Btl	mostly empty APPROX
5	1	Chapala Coffee Liqueur 750ml Btl	mostly empty APPROX
6	1	Jack Daniels Whiskey 750ml Btl	mostly empty APPROX
7	1	100% Brandy 1/2 gal full in 2 plastic bags	full APPROX
8	1	Yukon Jack Canadian Liqueur 750ml Btl	1/2 full APPROX
9	1	California Cooler 12oz Btl	open 1/2 full (dispensed off)
10	1	Long Beach & Co. wine 750ml Btl	open mostly full
11	1	Loft Screen (CRIME)	
12	1	Calla Lambusca wine 750ml Btl	open mostly empty
13	11	California Cooler 12oz Btl's in case box	full Btl's / box contains 11
14	3	Calla Lambusca wine 750ml Btl's & Box	full Btl's / box contains 3

Maintained in the Custody of Investigator:

Loft Screen & MYERS.

Released by

Time & Date

1540 5-9-84

Received by

Time & Date

1540 5-9-84

Released by

Time & Date

1215hrs 12/10/84

Received by

Time & Date

1215hrs 12/15/84

Released by

Time & Date

Received by

Time & Date

Released by

Time & Date

Received by

Time & Date

Released to Owner

Time & Date

Received by

Time & Date

Property Taken From:

5-9-84

(9)

DEPARTMENT OF REVENUE
LEGAL & INVESTIGATION DIVISION
EVIDENCE RECEIPT & PROPERTY REPORT

(A) Check One: <input type="checkbox"/> Evidence <input type="checkbox"/> Recovered <input type="checkbox"/> Found <input type="checkbox"/> Stored	(B) Evidence No.	(C) Case No.
---	------------------	--------------

(D) VIOLATION:

(E) SUSPECT (Alleged Owner), ADDRESS & PHONE NO.

Name:	Address:	Phone No.
-------	----------	-----------

(F) Address or location property found or collected

TAKEN FROM	Time & Date	Person Receiving <i>Don 11/9 10-6-83</i> Signature: <i>Don 11/9 10-6-83</i>
------------	-------------	--

Item No.	Describe property:	QUANTITY	DESCRIPTION	CONDITION
1	4		Royal Gate Vodka 1pt	Sealed
2	14		Royal Gate Vodka 200ml	Sealed
3	1		Bacardi Rum 4/5 pint	Sealed
4	3		Bacardi Rum 200 ml	Sealed
5	3		Ritka Vodka 200 ml	Sealed
6	3		Cutty Sark Scotch 200ml	Sealed
7	1		J+B Scotch Whisky 200 ml	Sealed
8	9		Smirnoff Vodka 200ml	Sealed
9	2		Low Cuckoo 200ml	Sealed
10	6		Beebeaters Gin 200 ml	Sealed
11	6		Bacardi Rum 200ml	Sealed
12	5		Galberg Gin 200 ml	Sealed
13	3		Op 200	Sealed
14	7		Royal Gate Vodka 1 pint	Sealed
15	20		Ritka Vodka 200 ml	Sealed
16	6		Royal Gate Vodka 200ml	Sealed
17	4		Thunderbird wine 750 ml	full
18	1		Beebeaters Gin 750 ml	Sealed
19	1		Beebeaters Gin 1 pint	Sealed
20	1		US 1/2 Scotch 750 ml	Sealed
21	1		Galberg Gin 750 ml	Sealed

Maintained in the Custody of Investigator:

Released by	Time & Date	Received by	Time & Date
Released by	Time & Date	Received by	Time & Date
Released by	Time & Date	Received by	Time & Date
Released by	Time & Date	Received by	Time & Date
Released to Owner	Time & Date	Received by	Time & Date

Property Taken From:

DEPARTMENT OF REVENUE
LEGAL & INVESTIGATION DIVISION
EVIDENCE RECEIPT & PROPERTY REPORT

(A) Check One: <input checked="" type="checkbox"/> Evidence <input type="checkbox"/> Recovered <input type="checkbox"/> Found <input type="checkbox"/> Stored	(B) Evidence No.	(C) Case No.	
(D) VIOLATION:			
(E) SUSPECT (Alleged Owner), ADDRESS & PHONE NO. Name: Address: Phone No.			
(F) Address or location property found or collected			
TAKEN FROM	Time & Date	Person Receiving Signature: <i>Sara [illegible] 10-6-83</i>	
Item No.	Describe property: <i>page 2</i>		
	QUANTITY	DESCRIPTION	
22	1	Chivas Regal Scotch #5 pint - Sealed	
23	1	Cordons Vodka 750ml Sealed	
24	1	Billy Two whisky pint Sealed	
25	1	Fewer Black Cream alcohol pint Sealed	
26	1	Cineco Goodwin 1 pint Sealed	
27	5	Stout Scotch 4 1/2 pint Sealed	
28	1	Pelska Vodka 4 1/2 pint Sealed	
29	1	Bacardi dark rum 4 1/2 pt Sealed	
30	3	Gordon's gin 1 pint Sealed	
Maintained in the Custody of Investigator:			
Released by	Time & Date	Received by	Time & Date
Released by	Time & Date	Received by	Time & Date
Released by	Time & Date	Received by	Time & Date
Released by	Time & Date	Received by	Time & Date
Released to Owner	Time & Date	Received by	Time & Date

Property Taken From: