

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 6, 1985

The thirty-second meeting of the Business & Industry Committee met on March 6, 1985 in Room 410 of the Capitol Building. The meeting was called to order by Chairman Mike Halligan at 10:05 a.m.

ROLL CALL: All members of the committee were present except for Senator Gage who was excused.

CONSIDERATION OF HOUSE BILL 215: Representative Joan Miles, House District 45, Helena, is the chief sponsor of this bill which would allow a specific beer to be advertised on the exterior of a retail licensee's premises for up to ten days. Presently, the law prohibits any sign on the exterior of any store advertising the brand name of beer. The original legislation prohibits any large permanent signs from being displayed outside of the store. This would just enable a store to display the brand name of the beer that is on special on a temporary display. The Department of Revenue is concerned about the enforcement problems that might occur if such a display were left for over ten days.

PROPONENTS: Frank Capps, Executive Director of the Montana Foods Distributors Association, feels the present law is a costly one to enforce regarding advertising because people are just misspelling a name of a beer or calling it animal beer on special and that type of thing to get around the law. He stated the ten day period of time is just a normal time period for advertising of a special and they support the bill. Rick Day, representing the Department of Revenue, offered an amendment striking "for more than ten days" because they foresee some enforcement problems. They feel the time period serves no real purpose and this amendment would make their responsibilities clearer. He feels it might lead to pressure from the wholesalers to put up permanent signs such as Pepsi or Coca-Cola have also. (EXHIBIT 1) Roger Tippy, representing the Montana Beer and Wine Wholesaler's Association, spoke in support of the bill as written and in opposition to the amendment proposed by the Revenue Department. He feels there would not be any objective standard with the amendment if it were to pass. (EXHIBIT 2) He also felt the ten day time period was adequate. George Allen, of the Montana Retailers Association, supports the bill as written also without the amendments proposed.

OPPONENTS: There were none.

Questions were then called for from the committee members. Senator Thayer wondered if there might be an interpretation from the Revenue Department saying that once you display the sale for ten days that is final for the year and you can't come back and offer the same special for a length of time. Frank Capps felt this was not a problem. Roger Tippy felt it would not be interpreted this way.

Senator Thayer expressed concern yet on the interpretation. Senator Halligan noted that the committee intends for the law not to be restricted in this way. Senator Williams wondered what the penalty was for violation and was told it was \$150 or a three day suspension. Representative Miles closed by stating it was not her intention for the Department of Revenue to have to monitor every sign that goes up. The large outdoor permanent type of signs are forbidden. Senator Williams will carry the bill on the Senate floor.

CONSIDERATION OF HOUSE BILL 221: Representative Rod Garcia, House District 93 of Billings, is the sponsor of this bill which would require 5% interest on residential tenants' security deposits. The bill passed through the House making it 12 month period of time and he would like to see it changed back to six months. He distributed an amendment making the interest payable upon termination of the rental agreement. He would also like to see mobile homes included. He feels the security deposit is the tenants' money and feels they are therefore entitled to interest on their money. (EXHIBIT 3)

PROPONENTS: Senator Dorothy Eck, Senate District 40 of Bozeman, had submitted a bill also along this same line and later withdrew it. She felt the amendments being proposed would make it include mobile homes again. She feels it is a fair bill and that people should be entitled to interest on the deposits they have to pay. She suggested an even higher interest rate. She felt the amendments would make it easier for the landlords to figure out the interest. Joanne Peterson, representing the Bozeman Housing Coalition, felt there was a need for this type of legislation and that mobile homes should be included. It would protect the landlord and the tenant. She felt since the legislation was initiated by the landlords themselves which is not usually the case that it was a fair bill. Terry Carmody, from the Montana Association of Realtors, supports this legislation but pointed out it might increase the cost of rent that the landlord charges. Ralph Lewis, Lobbyist for the Montana Landlord's Association, stated they are in favor of this bill only with the acceptance of the amendment proposed on the security deposit interest being collected at the time of the rental agreement ending. (EXHIBIT 4) Jim Kennedy, a member of the Montana State Landlord's Association, supports the bill but they are concerned about the additional paperwork and expenses than might be incurred. Teri England, representing MontPIRG, stated they have received 10-15 calls per week regarding landlord, tenant agreements. They feel having interest charges given back to the tenants on their deposits is fair. She did not feel the paperwork involved would be too complicated. Hugo Eck, of Bozeman, feels the interest would make the landlord do a more rigorous inspection of the premises when a tenant leaves. He felt the paperwork might be a problem but still recommended passage of the bill.

Questions from the committee were then called for. Senator Christiaens wondered what amount of money would be required before a 1099 would have to be filed. The committee felt it was possibly \$10. Senator Christiaens expressed reservations about the extra paperwork that might be involved. Rep. Garcia felt the tenant himself would have to fill out the form since it was his money. He felt the deposits could be kept separate in the savings account. Senator Fuller asked what the average amount of the deposits amounted to and was told it is usually half a month's rent or sometimes a month's rent. Senator Weeding wondered if a tenant stayed longer than a year if you would have to pay them this interest annually. The bill is written to state that it would be upon termination of the tenancy. Senator Halligan wondered if it would apply to any tenant who resides for over twelve months or longer even if you leased on a month to month basis. Senator Williams wondered what had prompted the legislation and was told by Representative Garcia that he represented low income people's interests and also the landlords association and he felt it would benefit those especially in the low income bracket. He did not feel the paperwork would be that costly or time consuming. Senator Christiaens felt however that there would be costs. Senator Goodover stated he would not rent to anyone with this type of bookkeeping involved with deposits. Senator Kolstad wondered if the landlord would have to do inspections to see if you qualified for the deposit interest. Ralph Lewis stated that a landlord should inspect the premises periodically to see if damage is occurring but felt this would not have a bearing on whether or not interest was coming at the end of the year. Senator Halligan asked if this legislation was patterned after any other state laws and Rep. Garcia stated he thought not. Rep. Garcia closed by stating he felt the committee should consider the tenant and urged a do pass. Sen. Regan will carry the bill on the Senate floor. The hearing was closed on House Bill 221.

CONSIDERATION OF HOUSE BILL 223: Representative Jack Ramirez, from House District #87, explained his bill was drafted at the request of the Montana Landlord's Association and attempts to clarify what is now an uncertain area of law. It deals with tenancies which are on a month to month basis and the situation that arises when a tenant leaves without giving proper notice of 30 days. It would clarify that when a tenant leaves without giving notice that the landlord is entitled to a prorated amount of the rent plus advertising costs in order to reread the property. It would also apply to the tenant if a landlord terminates an agreement.

PROPONENTS: Ralph Lewis, representing the Montana Landlord's Association, explained this addresses a grey area of law and they are in favor of the measure. (EXHIBIT 6) Jim Kennedy, also with the Montana Landlord's Association, feels they already handle their rentals this way but it would just clarify an existing remedy. Hugo Eck, Bozeman, stated he does this type of arrangement now but feels this would be a good bill. Teri

England, from MontPRIG, supports the bill but feels the tenant should not have to help pay for advertising.

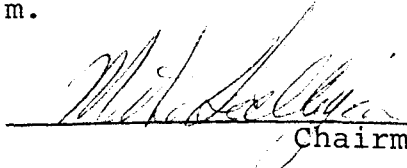
Questions from the committee were asked for. Senator Halligan wondered if there was any provision that the landlord makes a reasonable effort to advertise promptly. Representative Ramirez felt there was nothing specific but just good faith. Jim Kennedy stated their bankers encourage them to do so. Senator Goodover felt that if a tenant is going to vacate without advance notice he will leave without paying the rent and if you don't have a deposit you are just out. Representative Ramirez closed the hearing on House Bill 223.

DISPOSITION OF HOUSE BILL 223: Senator Christiaens made a motion that House Bill 223 BE CONCURRED IN. Senator Goodover felt the majority of landlords do this now so wondered why the necessity to change the law. Senator Halligan stated this is a grey area and that many landlords do not understand the law. On a roll call vote the motion failed 5 to 5. (EXHIBIT 7)

DISPOSITION OF HOUSE BILL 215: Senator Thayer wondered if adding the words "per display period" after ten days in the bill would be agreeable to the representatives present. He made a motion to add these words into the bill. The motion carried. (EXHIBIT 8) Charles Gravely explained the problem now is the way the bill was drafted it makes it a violation and the department is not enforcing the law. Senator Thayer then moved that House Bill 215 BE CONCURRED IN AS AMENDED. The motion carried with Senator Christiaens voting no. Senator Williams will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 221: Senator Christiaens moved that House Bill 221 NOT BE CONCURRED IN. Senator Halligan wondered why they feel it would be a major paperwork problem as this is a major complaint of tenants who would like interest on their security deposits. Senator Christiaens felt it would raise the costs if the legislation passed. Senator Goodover felt the tenant can demand this now if he wants it anyway. Senator Thayer supports the concept but felt there might be some mechanical problems. Senator Fuller felt there might be some merit to the bill but the way it is written it is unworkable. Senator Christiaens felt that mobile homes should definitely be included. The motion to NOT CONCURR passed with Senator Halligan and Senator Weeding voting no. Senator Christiaens will carry the bill on the floor.

The meeting was adjourned at 11:45 a.m.


Chairman

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/6/85

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		
Senator Weeding	X		

Each day attach to minutes.

COMMITTEE ON

Mar 6, 1955

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Department of Revenue
Legal & Enforcement Division
Investigations Program

The Investigations Program supports the concept of allowing temporary marquee advertisements which contain references to beer brands.

As there are hundreds of marquees in use across the state the enforcement problem is evident. More importantly the 10-day restriction would place the department unnecessarily at odds with retailers. The Program proposes the following amendment. There may be some concern that removing the 10-day restriction will place additional pressure on beer wholesalers to provide outdoor signs to retailers. In case this is a concern the Department takes the position that providing an exterior sign would violate §16-3-241, MCA.

House Bill 215 introduced bill be amended as follows:

(1) Page 1, Line 25

Strike: "and is not displayed"

Insert: "."

(2) Page 2, Line 1

Strike: "for more than 10 days"

WITNESS STATEMENT

NAME ROGER TIPPY BILL NO. HB 215
ADDRESS P.O. Box 124 DATE 3/6/85
WHOM DO YOU REPRESENT? Montana Beer & Wine Wholesalers Assoc.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The bill as written, without amendments,
reflects negotiations over the interim between the
Montana Food Distributors Assn. and the Montana Beer &
Wine Wholesalers Assn.

The amendment we are proposing is as follows:

That interest be payable or applicable to the deposit only upon the termination of the rental agreement-- payable through the last full month of tenancy. This law will not be retroactive.

MONTANA LANDLORD'S ASSOCIATION, INC.

312 MOORE LANE
BILLINGS, MONTANA 59101

SENATE BUSINESS AND LABOR COMMITTEE

HB 221

EXHIBIT 4
BUSINESS & INDUSTRY
March 8, 1985

Mr. Chairman:

I am Ralph Lewis, state vice president and lobbyist for the Montana Landlord's Association.

We are in favor of this bill only with the acceptance of an amendment on the security deposit interest portion. Also, we feel that the original portions of the bill that have been deleted, dealing with bringing month to month commercial rentals into the landlord-tenant act, should be resurrected. Since business rentals are not all handled with a lease, this will pertain to those rented by the month. It is very surprising how many landlords handle their business rentals in this manner. THEY NEED THIS PROTECTION.

The amendment we are proposing is as follows:

That interest be payable or applicable to the deposit only ^{upon} termination of the rental agreement--payable through the last full month of tenancy. This law will not be retroactive. Without this amendment, the bill, as written, will cause extra paperwork and headaches for the industry. It would definitely increase expenses for the landlord THAT WILL BE PASSED ALONG IN THE FORM OF INCREASED RENTS. WITHOUT THE PROPOSALS ABOVE, WE WILL HAVE TO OPPOSE THIS BILL.



Ralph Lewis
State Vice President





Montana Public Interest Research Group

729 Keith Avenue • Missoula, MT. 59801 • (406) 721-6040
532 N. Warren Helena, MT. 59601 (406)443-5155

TESTIMONY BEFORE THE BUSINESS
AND INDUSTRY COMMITTEE OF THE
MONTANA SENATE

MARCH 6, 1985

Mr. Chairman and members of the committee, my name is Teri England. I am speaking on behalf of the Montana Public Interest Research Group. MontPIRG is a nonprofit, nonpartisan research and advocacy organization funded and directed by University of Montana students. We have completed research in the landlord-tenant area and support HB221. MontPIRG has operated a consumer hotline in Missoula since 1982. Through this hotline we receive 10-15 calls per week. Many consumer complaints involve landlord-tenant agreements. MontPIRG researched and published a landlord-tenants' rights handbook in 1983. The publication has been used by both landlords and tenants as a reference to both parties' rights and responsibilities. One area of responsibility for a tenant and landlord concerns security deposits.

Security deposits are money in escrow to ensure a landlord that a tenant will comply with the rental agreement. MontPIRG believes that since the security deposit money is paid by the tenant, interest earnings should belong to the tenant and not the landlord. Utilities regulated by the Public Service Commission are required to give 12 percent interest on security deposits, we believe landlords should take the same responsibility. MontPIRG has one concern with HB221, on page 5 line 7

"...for any tenancy that continues for a period of 12 months or longer." Interest earnings are accrued on any security deposit. Therefore, tenants should receive all of the interest earned, regardless of the length of tenancy.

HB221 recognizes a very basic right of tenants. MontPIRG supports HB221 and we urge your support also. Thank you for your consideration.

MONTANA LANDLORD'S ASSOCIATION, INC.

312 MOORE LANE
BILLINGS, MONTANA 59101

EXHIBIT 6
BUSINESS & INDUST
March 6, 1985

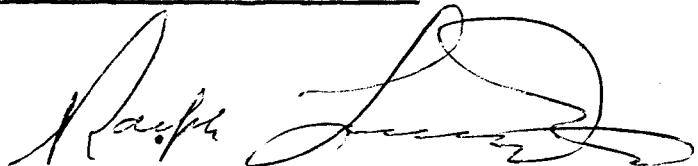
SENATE BUSINESS AND LABOR COMMITTEE

HB 223

Mr. Chairman:

I am Ralph Lewis, state vice president and lobbyist of the Montana Landlord's Association.

This bill is attempting to explain the grey areas in this law. We, of the Montana Landlord's Association, have been advising our members, for many years, to handle their business in this manner. WE FEEL IT IS TIME THAT IT IS SPELLED OUT AS A MATTER OF LAW. WE ARE DEFINITELY IN FAVOR OF THIS BILL.



Ralph Lewis, State Vice President
Montana Landlord's Association



ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date March 6, 1985 House Bill No. 223 Time 10:30 a.m.

NAME	YES	NO
Chairman Mike Halligan	X	
V-Chrm. B. F. Christiaens	X	
Senator Paul Boylan		X
Senator David Fuller	X	
Senator Delwyn Gage	not present	
Senator Pat Goodover		X
Senator Allen Kolstad		X
Senator Ted Neuman		X
Senator Gene Thayer		X
Senator Bob Williams	X	
Senator Cecil Weeding	X	

Carol Duval
Secretary

Mike Halligan
Chairman

Motion: Motion by Senator Christiaens that House Bill 223 BE
CONCURRED IN. Vote was 5 to 5. Senator Gage was asked later for
his vote and he voted no so the vote was then 6 to 5 and the motion
failed. The committee will do final disposition March 7, 1985.

PROPOSED AMENDMENT TO HOUSE BILL 215

1. Page 2, line 1.

Following: "days"

Insert: "per display period"

STANDING COMMITTEE REPORT

MARCH 6

85

19.....

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY

having had under consideration..... HOUSE BILL 215 No.....

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color

**ALLOW TEMPORARY BEER ADS ON EXTERIOR OF RETAILERS' PREMISES
(Williams)**

Respectfully report as follows: That..... HOUSE BILL 215 No.....

be amended as follows:

1. Page 2, line 1.

Following: "days"

Insert: "per display period"

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

.....Mike Talligan.....

Chairman.

STANDING COMMITTEE REPORT

MARCH 6

85

19.....

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on.....

having had under consideration..... HOUSE BILL No. 221

third reading copy (blue)
color

MAKE LAW ON RESIDENTIAL TENANTS' SECURITY DEPOSITS APPLY TO COMMERCIAL
(Christiaens)

Respectfully report as follows: That..... HOUSE BILL No. 221

NOT BE CONCURRED IN

NRKAS

RRNRKAS

Mike Halligan

Chairman.