

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 8, 1985

The Business & Industry Committee met on March 8, 1985 at 10 a.m. in Room 410 of the Capitol Building. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL 334: Representative Budd Gould, House District 61 of Missoula, explained his bill came about because of a request of the Revenue Oversight Committee. The Department of Revenue has discovered that the practice of renting beer dispensers, cooling equipment, etc. is not allowed by current law and the committee felt that a bill should be drafted concerning this area. It was amended in the House to read furnish instead of rent. He felt it the committee so desired, they might add a sentence stating that furnish meant the same thing as rent.

PROPOSERS: Roger Tippy, representing the Montana Beer and Wine Wholesalers Association, stated this change is needed to preserve the status quo. For years they have been renting cooling equipment for beer. He hopes the bill would pass that would allow the wholesaler to continue this practice. The option of not passing the legislation would allow the department to prohibit this practice effective in July and completely deregulate. He would prefer the word rent be left in the bill. (EXHIBIT 1) Sandy McDonald, President of the Montana Beer and Wine Distributors, stated their association met and decided to support this legislation. (EXHIBIT 2) Rick Day, Manager of the Investigations Program for the Department of Revenue, stated they support the concept but would like to see the word furnish left in as they would prefer not to be in the business of regulating the rentals.

OPPOSERS: There were none.

Questions were then called for from the committee. Senator Halligan asked why the brewers were left out of the bill and Roger Tippy explained they must sell to an independent wholesaler first and the brewers have nothing to do with this type of equipment. Senator Thayer wondered why there was a need for a law. Roger Tippy explained the policies came about because of prohibition laws and they are just used to these type of regulations. Senator Goodover wondered if by renting there was more incentive to return the equipment to the owner. Roger Tippy stated to deregulate would mean you could charge whatever you wished. It is possible one could try to buy someone's business by offering to supply the dispensers, cooling equipment etc. over and above the price. Senator Goodover wondered if this were legalized if it would be an incentive to buy a certain product and Rick Day said this was possible. Senator Williams asked if the wholesale price of beer is fixed or is negotiable. Roger Tippy said the practice is

to equalize the price through a certain territory but for volume purchases they can negotiate a discount if they so desire. The hearing was closed on House Bill 334.

CONSIDERATION OF HOUSE BILL 268: Representative Ray Harbin, House District 53, Lake County, explained his bill was requested by the Department of Administration. It is designed to designate the agency letting the contract to be the responsible party for holding securities in lieu of retained payments. The current system is three tiered and this would just change the format and eliminate some of the paperwork now necessary.

PROPOSERS: Dave Ashley, Deputy Director of the Department of Administration, stated they support the bill which would allow the public letting agency to hold the securities as opposed to the state treasurer. It would just simplify the process as it is now a three party system. Dave Stover, representing the Montana Contractor's Association, encouraged passage of the bill which would just eliminate some of the red tape now involved.

Questions were then called for. There were none. Representative Harbin closed the hearing on House Bill 268.

CONSIDERATION OF HOUSE BILL 85: Representative Earl Lory, House District 59, Missoula, stated this bill would make state owned golf courses eligible for publicly owned golf course beer and wine license. He explained his bill last session gave permission for golf courses owned by local governments to have a beer and wine license and this university golf course was unintentionally left out. He explained the university golf course is primarily used by senior citizens and the public in the Missoula area.

PROPOSERS: Ray Chapman from the University of Montana, spoke on behalf of the bill which would generate some revenue to help them keep up the maintenance of the small course located near the campus. They are dependent upon green fees for the maintenance of equipment and can use more revenue.

OPPONENTS: Bob Durkee, from the Montana Tavern Owner's Association, is opposed to the bill because they feel it is just another slight amendment to chip away at the quota system. They cannot understand why the university cannot just apply for a license as others have to do. They are also concerned there might be a misinterpretation of the law to allow it to open up to mini golf courses and video games in student unions and on down the line.

Questions were then called for from the committee members.

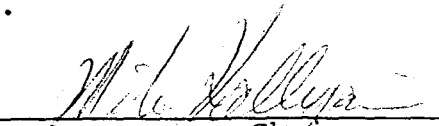
Senator Kolstad wondered where the revenues would go and was told for the maintenance of the golf course. Senator Williams asked if there was a problem restricting them from getting a license through the normal procedures. Ray Chapman stated the university system has been contracting with a licensed vendor for special occasions but had no intention of agreeing to one of the university systems possessing an all beverages license. Senator Goodover wondered if they were to just exempt them if this would be a problem. Ray Chapman explained after reviewing the situation they felt this was the simplest method to provide this type of license. There was a question about whether this would conflict with their getting catered services as they do now and Ray Chapman explained they did not intend to change their past policies in this regard. Senator Goodover wondered if they could foresee problems in policing of such a facility if the 21 year drinking age passes. Ray Chapman thought it would be enforced the same as any other facility. Senator Christiaens asked if the state would be liable for any violations and it was thought they would be responsible. Senator Christiaens asked about the definition of a golf course and was told it was at least 3200 yards on each side. Senator Thayer wondered how many received licenses after the legislation passed last time and was told there were three. Senator Gage wondered if anyone other than the owner-operator of the course could have the license and the way the bill is written it must be the owner-operator of the course. Senator Lory closed the hearing by stating this would be a non-transferable license and would be very restrictive and urged passage.

CONSIDERATION OF HOUSE BILL 334: Senator Christiaens wondered if there was a dollar limit on the value of the rental equipment. Senator Goodover asked Bob Durkee how the procedure for renting the equipment is done now and was told it was through the wholesalers. Senator Williams wondered if they could set up anywhere and sell from the trucks and Bob Durkee felt they could not. Senator Christiaens felt this was not so as he had seen beer being sold right from the trucks. Mary McCue explained that the way the bill is drafted, the word furnish means they can also rent if they want to or furnish without charge. Senator Christiaens wondered if the word furnish was clear enough. He wanted to assure that the option of renting or for free is included. Senator Goodover felt they were just trying to get away from the wholesalers trying to bribe the retailers by offering free merchandise if you buy a certain product. Mary McCue explained the term furnish meant you can rent but does not mean just to rent. Discussion of restoring the bill back to its original wording and finally a decision by the committee to talk with the revenue department before making a final decision on the bill.

DISPOSITION OF HOUSE BILL 268: Senator Christiaens made a motion for House Bill TO BE CONCURRED IN. The motion carried. Senator Halligan will carry this bill on the Senate floor.

DISPOSITION OF HOUSE BILL 85: Senator Christiaens made a motion that House Bill 85 NOT BE CONCURRED IN. He felt the board of regents should have been here to support the bill if they desired this and felt the liability factor could also be a problem. Senator Williams then made a substitute motion that House Bill 85 BE CONCURRED IN. Senator Williams asked Bob Durkee what the going price for a license is and was told it varies. Senator Weeding asked if it was permissible to pay a vendor to sell on the golf course on a regular basis. Ray Chapman responded they have on special occasions but never on a regular basis. Senator Williams asked how this would assist the golf course and Howard Johnson, manager of the golf course, stated some of the problems they would like to see taken care of for maintenance. Discussion of the green fees and whether or not the fees could be raised. Howard Johnson felt this would be a handicap to the students to have to pay higher rates. Senator Thayer felt this was chipping away at the quota system and this concerned him. Senator Lory felt it was not the original intention last session to exclude the university golf course from the bill. Senator Gage wondered if they had explored the possibility of renting out the club house to someone with a license but the university people felt they would lose the control of the facility that they now have. Senator Halligan added it would just be helpful to the people maintaining the course to have the additional revenues it might create. On a roll call vote the motion TO BE CONCURRED IN passed 6 to 4. Senator Boylan was not present for the vote, and Senator Christiaens, Senator Gage, Senator Goodover, and Senator Thayer voted no.

The meeting was adjourned at 11:25 a.m.


Chairman

cd

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/8/85

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.

DATE March 8, 1985

COMMITTEE ON Business & Industry

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with agent)

BEFORE THE COMMITTEE ON BUSINESS & INDUSTRY
MONTANA SENATE

House Bill 334 by Gould-)	STATEMENT IN SUPPORT:
Rental of Draft Beer Equipment)	MONTANA BEER AND WINE
by Beer Wholesalers)	WHOLESALERS ASSN.

Beer wholesalers have, for some years, rented out certain types of equipment needed for dispensing draft beer from kegs. In size these items range from pumps and CO₂ tanks to ice-holding units like small watering troughs to trailers or wagons.

The Department of Revenue approved this practice for years, requiring only that the rental charge be a fair market value. Two years ago, the Department announced a complete change in the way it was reading the law. It decided that the rental practice was banned by a section which prevents wholesalers or brewers from dominating retail outlets by giving them furniture or fixtures.

The wholesalers, having invested in this equipment, did not want to unload it at distressed prices. They also questioned the Department's interpretation of the law before the Revenue Oversight Committee. That committee listened to the Department and the wholesalers and adopted a motion asking the Department to hold off the enforcement of its new interpretation until this session could deal with the matter. The Department Director agreed to do this.

This bill is therefore introduced to maintain the status quo. If you pass it the people who get special beer permits in your communities will be able to rent trailers or tanks or whatever from the wholesaler when they buy their kegs. If the legislation does not pass and the Department of Revenue policy goes into effect, this equipment may not be available from commercial rental firms.

The House Committee amended this bill at the suggestion of the Department of Revenue's Investigations Program to replace the verb "rent" with "furnish" and to delete the reference to fair market value rental rates at the bottom of page 2. As amended, the bill does not preserve the status quo but completely deregulates the subject. It is one thing to write legislation so as not to increase the workload of the liquor inspectors. To write laws so as to decrease their workload is something else. We would prefer to see the term "rent" restored, or at least see the legislative intent expressed that to furnish means to rent, in this context.

Attached to my testimony is a listing of the events which rented a dispensing van from one of the Missoula wholesalers last year. As you can see, small-town rodeos, taverns, catering off-premises, and other special events need this sort of equipment. In the interest of colder, sudsier beer next summer, please concur in HB334.

ZIP BEVERAGE INC.'S DRAFT VAN IS RENTED OUT AT A FEE OF \$25.00 PER DAY

THE FOLLOWING IS A LIST OF THE FUNCTIONS THAT HAVE RENTED THE VAN DURING 1984

1. Elks Club Picnic
2. Moose Club Picnic
3. Chamber of Commerce Annual Picnic
4. St Joseph School Alumni Party
5. St Francis BASH Promotion
6. Fort Missoula Historical Museum
7. Tripp Trucking Annual Picnic
8. Champion International Picnic
9. Missoula County Court House Picnic
10. Missoula County Tavern Association Picnic
11. Frenchtown 100 year Centennial Celebration
12. Charlie B's Bar Softball Tourney
13. Trails End Bar Softball Tourney
14. Grant Creek Ranch Branding Party
15. Drummond Rodeo
16. Helmville Rodeo
17. K-Mart Annual Picnic
18. Rosauer's Annual Picnic
19. Gay 90's Bar Picnic
20. Lily Restaurant for catering party
21. Boardroom Lounge for catering party
22. Corky's Lounge for Ball Tournament
23. Florence Rodeo
24. Ronan Rodeo
25. Missoula County Golf Tournament
26. Missoula J.C.'s Annual Picnic
27. 8-Ball Bar Annual Picnic

STANDING COMMITTEE REPORT

MARCH 8

85

19.....

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on.....

having had under consideration..... HOUSE BILL No. 268

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AGENCY LETTING CONTRACT TO HOLD SECURITY IN LIEU OF RETAINED PAYMENTS
(Halligan)

Respectfully report as follows: That..... HOUSE BILL No. 268

BE CONCURRED IN

~~BY PASS~~

~~DO NOT PASS~~

.....
Mike Halligan

Chairman.

STANDING COMMITTEE REPORT

MARCH 8

19. 85

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

having had under consideration..... HOUSE BILL No. 85

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color

STATE ELIGIBLE FOR PUBLICLY OWNED GOLF COURSE BEER AND WINE LICENSES
(Halligan)

HOUSE BILL 85

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

BE CONCURRED IN

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XXXXXXXXXX

Mike Halligan

Chairman.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date March 8, 1985 HOUSE Bill No. 85 Time 10:30 a.m.

NAME	YES	NO
Chairman Mike Halligan	X	
V-Chrm. B. F. Christiaens		X
Senator Paul Boylan	not present	
Senator David Fuller	X	
Senator Delwyn Gage		X
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: A substitute motion by Senator Williams that House
Bill 85 BE CONCURRED IN. Passed 6 to 4. Senator Boylan was
not present for the vote.