

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

February 10, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on February 10, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 476 - Confidentiality of Video Draw Poker Machine Income Statistics, sponsored by Rep. Bud Gould, House District 61, Missoula. Rep. Gould commented there were three groups of people that make profits from poker machines: the coin operators who own the machines, the tavern owners and the burglars who break into the machines. He said the bill is intended provide that the poker machines would be under the supervision of the Department of Commerce, and the department can disclose the amount taken in during a previous quarter and the range as far as net profit is concerned, but not disclose the locations of the machines. He stated that his proposed amendments would take the Department of Revenue out of the bill, but this is not an effort to withhold the amount of revenue generated by the poker machines confidential or to keep anything from the legislature, audit committee, or the Department of Revenue or Commerce. He said all those records would be there, but the location of the machines would not be disclosed.

PROPONENTS

John Poston, Lobbyist for Coin Machine Operators Association. Mr. Poston stated that the first statistical reports from the machines were published in the newspaper disclosing the locations of the various machines and the income from them, and after that there was a rash of burglaries. He said he was asked to file a lawsuit, and after discussing this with the Department of Revenue attorneys, they became aware that in the previous legislative session, the confidentiality portion of the bill had been left out, so they decided to ask the legislature at this session to see if the problem could be resolved. He said in the bill they are attempting to prohibit the publication of income from an individual machine and its location.

Phil Benson, Montana Music Rentals in Missoula. Mr. Benson reported that as a direct result of the newspaper article in December, 1985, they have had to add security precautions even though they don't leave any money on the premises. He

said he was one of the persons who filed an injunction to immediately stop the information regarding poker machine income. He stated they felt if the information was allowed to be released as to the profitability of them, it would give impetus to target a particular machine and location and also target the collectors who service the machines. He said the information should only be available to the tavern owner, coin machine operator, the Department of Revenue, and Internal Revenue Service.

Pat Coyle, Mr. C's Lounge, Missoula. Mr. Coyle stated he agreed with Mr. Benson's statement. He said he has not been able to buy crime coverage at his location, and any loss from the machines would be a direct loss to him without insurance coverage.

Randy Leep, D & R Music, Bozeman. Mr. Leep stated he agreed with the statements made. He said one other problem with the locations of the machines made known is the service people being out during evening hours carrying the money with them, or opening the machines in front of the public, which also promotes the possibility of burglary.

Jerry Ritter, Corner Club Bar, Bozeman. Mr. Ritter stated he has had his poker machines broken into, and it is very costly and very dangerous. He said there was no constructive purpose served by making this type of information available.

Bob Durkee, representing Montana Tavern Association. Mr. Durkee stated he supports the bill and hopes that it will stop unnecessary publication of amounts of money received from the machines.

Rep. Robert Pavlovich, House District No. 70, Butte. Rep. Pavlovich stated supports the bill.

OPPONENTS

None.

QUESTIONS

None.

CLOSING

Rep. Gould made no further comments.

HOUSE BILL NO. 586 - Modify Marketing Arrangements for Table Wine, sponsored by Rep. Budd Gould, House District No. 61, Missoula. Rep. Gould stated that this bill would probably

not pass in its entirety, but it should be incorporated into one of the other bills. He stated the tax on table wines has been very minimal, and what the state is making on the wines in taxes and net profit is minimal. He commented there is no reason for the state to be in the business, when it could be using the space for more profitable items.

PROPONENTS

Roger Tippy, representing Montana Beer and Wine Wholesalers Association. Mr. Tippy submitted written testimony. Exhibit Nos. 1, 2, and 3.

OPPONENTS

Gary Blewett, Administrator, Liquor Division, Department of Revenue. Mr. Blewett stated the department has two issues concerning this bill, how does the department obtain the revenue it currently has and what is the affect on current agency contracts. He said this bill would require commission agents of the department to obtain the table wine they sell from a wine distributor and not from a state warehouse. He commented that it appears that the agent's purchases from a distributor would be an independent transaction between the agency and the distributor; a transaction in which the department would have no role. He said if this bill is passed, references to the table wine in the operation of stores and agencies would be eliminated, and the requirement to deposit all monies received from sales in the state treasury would no longer apply to table wine, in which case the state would not know what its share from the table wines would be.

Mr. Blewett said concerning the contracts with existing agencies, the relationship between the Department and its current agents proposed in the bill would be changed. He commented that this bill would place a new burden on agents, as they currently do not purchase any of the products that they sell for the state. He said this bill would require them to purchase the table wine they would sell in order to continue earning revenue from table wine sales they currently get. He said if there is a concern on the fear that grocery stores will become agents who then give up table wine bought from distributors, then a more direct solution might be more advisable; the law concerning agency contracts could be amended to preclude grocery stores as agents. That, he added, would reach the problem and prevent complicated financial tracking and maintain existing contract relationships.

Phil Strobe, Montana Tavern Association. Mr. Strobe stated that they are opposed primarily because of the bill being a backup bill to pending legislation.

QUESTIONS

None.

CLOSING

Rep. Gould asked that the bill be given a chance until they see what happens to the other legislation.

HOUSE BILL NO. 537 - Eliminating Filing Annual Statements With County Clerk, sponsored by Rep. John Patterson, House District No. 97. Rep. Patterson stated the bill is an act removing the requirement that the annual statement and report expenditures be filed with the county clerk and recorder by farm mutual insurers and benevolent associations. He said the bill would eliminate the requirement that these organizations are to file at the county level, but the reports would still be required to be filed at the state level.

PROPOSERS

None.

OPPOSERS

None.

QUESTIONS

None.

CLOSING

Rep. Patterson made no further comments.

EXECUTIVE ACTION

ACTION ON HOUSE BILL NO. 537

Rep. Brandewie moved that House Bill No. 537 DO PASS. The motion carried with Rep. Bachini, Rep. Cohen, Rep. Grinde, and Rep. Nisbet opposed.

ACTION ON HOUSE BILL NO. 586

Rep. Brandewie moved that House Bill No. 586 be TABLED. The motion carried with Rep. Thomas opposed.

HOUSE BILL NO. 499 - Prohibit Disclosure of Loan Information Involving Credit Insurance, sponsored by Rep. Jack Sands, House District 90, Billings. Rep. Sands stated this bill was at the request of the State Auditor and makes a small change in the statutes regarding information which may be disclosed by lenders. He said the bill provides that the information obtained for the purposes of acquiring insurance cannot be released at any time without the written consent of the borrower. It broadens the disclosure and makes it more meaningful, he added, and the information obtained is obtained when the loan is made or credit is extended.

PROPONENTS

Kathy Irigoin, Montana Insurance Department, State Auditor's Office. Ms. Irigoin stated the department strongly supports the bill.

Chairman Kitselman stated in order to be consistent with other policies, in the future, the departments could stand as a proponent or opponent for informational purposes only.

OPPONENTS

None.

QUESTIONS

Rep. Driscoll asked to whom the organizations gave the information. Rep. Sands replied they could give it to a credit reporting agency or to another bank for the purpose of establishing somebody's credit rating.

Rep. Driscoll asked if it would not be better if they would not be allowed to give it to anyone, they could give information as to whether or not the loan was rejected or accepted, but not credit life insurance. Rep. Sands responded that this part of the codes deals with loans obtained in the course of securing insurance, and is a part of the insurance code and not a part of the general financial lending regulations.

CLOSING

Rep. Sands made no further comments.

HOUSE BILL NO. 570 - Allow Retail Golf Course All-Beverage License for Private and Public Courses, sponsored by Rep. Raymond Brandewie, House District 49, Bigfork. Rep. Brandewie stated that if the golf course has an all beverage license they could serve beer instead of only soft drinks on the golf course and within the boundaries of the course.

PROPOSERS

Gene Phillips, representing Buffalo Hill Golf Course, Kalispell. Mr. Phillips stated they have a unique situation that the bill would address and solve. He said the tourists that come in to the area are not familiar with the course, and are upset when they cannot buy beer at the halfway house on the course, and this bill would allow them to sell it there.

Mark Manion, Manager, Green Meadow Country Club, Helena. Mr. Manion stated the practice of selling beer and alcoholic drinks with sandwiches and snacks has been a practice as long as there has been golf. He said if this bill does not pass, the practice of drinking any alcoholic beverages on the golf courses won't stop; the golfers would bring their own, which completely takes away the control from the clubs of selling these items on the golf course, or the control over the amount of beverages consumed and the condition of the drinker.

Rep. Robert Pavlovich, House District No. 70, Butte. Rep. Pavlovich stated he supported this bill. He said this would not be abused, the golf courses are fenced so there should be no problems.

Rep. Ed Grady, House District No. 47, Canyon Creek. Rep. Grady stated he supports this bill, and it was good for the golf course to increase their sales and it helps make more money.

OPPOSERS

Don Larson, Legislative Chairman, Montana Tavern Association. Mr. Larson stated he has appeared since the 1959 session in opposition to a special privilege legislation for the golf courses. He commented there has been millions of dollars spent nationwide for research and education regarding the consumption of alcoholic beverages, there has been programs to encourage moderation in drinking, proposed national legislation to prohibit advertising of alcoholic beverages, and legislation to raise the legal drinking age to 21, and in spite of all that, this bill appears. He said they feel that liquor is better sold in a controlled atmosphere.

Phil Strobe, attorney, Montana Tavern Association. Mr. Strobe stated that in a sense this is a public policy decision which the legislators need to answer. He said if the privilege is extended to those who golf, then why not extended it to those who ski or attend rodeos or other activities. He said the reason that should not be done is

that legislation has been passed concerning excessive consumption in uncontrolled environments.

QUESTIONS

Rep. Driscoll asked Mr. Strobe if it was illegal to take a six-pack of beer on the course if the bill passed. Mr. Strobe replied if the bill passed, it would expand the term premises to include all of the course, and if a person came on the premise with a six-pack they would be in technical violation of the law.

Chairman Kitselman asked if there was a wedding reception at the 9th hole and a tent was set up and liquor was served, would that be considered an extension of a catering license. Mr. Blewett responded it would only be covered if it were defined as a special event, and a special permit was requested three days in advance of when it would be catered and a fee paid.

Mr. Strobe responded that the Holiday Inn does use the catering endorsement and every time liquor is served in the convention facility which is a separate building on their property, they exercise the privilege of the catering endorsement and pay the \$35 fee. He said in reference to the country club setting and the outdoor beer gardens, the Park Plaza in downtown Helena, is an example. He said it is adjacent to the building and a door had to be cut from the patio area to give access to the restroom. He added that the department was particular on the identification of adjacent properties and believe the controlling criteria is whether it is amenable to the central facilities of the main building.

CLOSING

Rep. Brandewie made no further comments.

HOUSE BILL NO. 487 - Insurance Consultant's License, sponsored by Rep. Fred Thomas, House District 62, Stevensville. Rep. Thomas stated that the bill was to streamline what a person could do to obtain an insurance consultant's license.

PROPOSERS

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana. Mr. McGlenn stated property and casualty consulting is becoming more in demand especially by municipalities in the state. He commented that some of the services provided by property and casualty consultants are insurance coverage review, risk management, loss control, evaluations of buildings and property and

specification drafting for bidding processes. He said these services require a high degree of knowledge and expertise and anyone providing these services should be able to pass the exam to obtain this license.

Bonnie Tippy, representing Montana Association of Life Underwriters. Ms. Tippy stated their philosophy that people who deal with the public in terms of life and health insurance should know what they are doing. She said that if someone has a designation such as CLU which is currently in the law, they do know a lot about life insurance, but ten years later they might not be up to date on what is happening in the industry, and before they are given a consultant's license they should take and pass the test.

Tanya Ask, Montana Insurance Department, State Auditor's Office. Ms. Ask stated the purpose of the bill was to insure that everyone was treated the same.

OPPONENTS

None.

QUESTIONS

Rep. Glaser asked if this bill were to pass, would it prevent the actuary consulting with the legislature regarding worker's compensation. Rep. Thomas stated the bill was for the purpose of obtaining a consultant's license, and had nothing to do with that.

Rep. Brandewie asked if Workers' Compensation hires an outside actuary, would he be required to take and pass this test before he can give information to the Department of Labor. Ms. Ask replied that there are three exemptions for actuaries. She said if someone is presenting themselves as an insurance consultant came in to evaluate the entire plan of insurance that someone has for workers' compensation, that person would have to be licensed as a consultant; but if he is merely advising on actuarial information that the Workers' Compensation Division needs, then he is not a consultant within this definition.

Rep. Brandewie asked, as the law is written, if a person is a member of the American Academy of Actuaries, could he give the information. Ms. Ask responded if he is advising on the total plan and if has has a consultant's license. She said if an individual is acting as a consultant right now, and does not have a license even though he is a member of the Academy, then he is presently in violation of the law.

Rep. Simon asked if the American College of Life Underwriters and the American College of Property and Liability Underwriters, and the others, have certain requirements for membership. Ms. Ask responded they did have, and that both courses of study are very structured, and in order to achieve those designations, a person had to pass a written examination.

CLOSING

Rep. Thomas stated regarding the actuarial business, actuarials shouldn't be allowed an exemption to obtain a consultant's license; they don't sell or work in the insurance coverage portion. He said there are no exemptions to obtain a general license to sell life insurance, property, or casualty insurance, and this would make the policy uniform.

HOUSE BILL NO. 574 - Require Certain Liquor Vendors and Brokers to Employ Resident Representatives, sponsored by Rep. Robert Pavlovich, House District No. 70, Butte. Rep. Pavlovich stated if a vendor, distillery or broker wants to sell liquor in the state, he should have a representative that is a resident of Montana selling the liquor. He said this bill provides that anyone wanting to sell liquor in the state would reside in the state.

PROPONENTS

Gary Blewett, Administrator, Liquor Division, Department of Revenue. Mr. Blewett stated liquor representatives who are residents of the state and servicing the suppliers from all over the nation and the world are an essential part of the liquor system. He said there is better service and better understanding of the salability of the products through suppliers represented by local representatives.

Bob Lemm, liquor representative, state of Montana. Mr. Lemm stated their purpose is to represent the various distilleries and wineries, promote the products to the public sector, and work together with the Liquor Division. He said they know there is a need to establish a residency law, and there are vendors who do not practice using Montana resident representatives. He commented that it would be more economical to attract vendors if there was a residency law, and a lot of vendors leave because Montana does not have one. He said the Montana representatives are licensed by Montana, are residents of Montana, are property owners and taxpayers in Montana.

Michael Lemm, native and resident of Montana. Mr. Lemm asked the committee to support the bill.

Robert Shriner, Pioneer Wine and Spirits, Great Falls. Mr. Shriner stated that Idaho and Wyoming have a residency law, and Montana allows their representatives to compete against us from their states, but they do not allow Montana representatives into their states.

John Martello, Liquor Broker, Montana. Mr. Martello stated that there is a problem with not having a law providing residency. He said there are many distilleries who do not have company representation in the state of Montana, and last year Montana purchased \$23.5 million worth of liquor from distilleries from out of state. He said in this business a broker works on a commission basis and a company representative works on a salary, and this money is leaving the state in the way of commissions and salaries by the companies who do not have representation in Montana, and this money should stay in the state.

Bob Durkee, representing the Montana Tavern Association. Mr. Durkee stated the Montana Tavern Association was instrumental in urging the legislation in 1975 regarding the liquor representative, under the concept that distilleries would hire Montana people. He said since that time there has been an erosion of that concept, and that the representatives are leaving probably for economic reasons and consolidating in other states. He said that in view of the Montana economic condition as many of those jobs as possible should be maintained.

OPPONENTS

None.

QUESTIONS

None.

CLOSING

Rep. Pavlovich made no further comments.

EXECUTIVE SESSION - February 10, 1987 - 9:30 a.m.

ACTION ON HOUSE BILL NO. 94

Rep. Smith moved that House Bill No. 94 DO PASS.

Rep. Smith moved the amendments. The motion carried unanimously.

Rep. Smith moved that House Bill No. 94 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 443

Chairman Kitselman moved that House Bill No. 443 DO PASS.

Chairman Kitselman moved the amendments. The motion carried unanimously.

Chairman Kitselman moved that House Bill No. 443 DO PASS AS AMENDED. The motion carried unanimously.

Rep. Nisbet moved the Statement of Intent for House Bill No. 443. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 562

Rep. Simon moved that House Bill No. 562 DO PASS.

Rep. Jones moved the amendments proposed by Roger Tippy. Exhibit No. 4.

He stated the amendments removed table wine from the liquor stores, since it was an item that did not make much money, the distributors were happy to do this.

Rep. Driscoll asked did the amendments mean a person could not buy table wine in the state liquor stores or agency stores. Rep. Simon explained if the bill passes, there won't be any state liquor stores, there either will be a bar or a privately owned liquor store. He said almost all the wine sold in the state is from the private distributors, and the package stores would obtain the wine from a distributor.

Rep. Jones's motion was voted on and carried with Reps. Bachini, Driscoll, Hansen, McCormick, Nisbet, and Wallin opposed.

Rep. Jones moved the amendments proposed by the subcommittee. Exhibit No. 5.

Rep. Pavlovich stated that the amendments makes it possible for a tavern owner to buy from another tavern rather than borrowing a liquor product that he did not have enough of and needs.

Rep. Simon stated that the amendment also ensures that the product has to be initially purchased from the state warehouse.

Rep. Simon stated that the bill provides that in a locality a group of bars could go together and get an endorsement and buy the product and have it come into one location. He said one person might want to be the supplier in the area and he

arranges to service the other taverns, and this makes it clear that he can set up an enterprise to facilitate distribution to another tavern.

Rep. Brandewie asked if the bill was circumventing the requirement for licensing. Rep. Simon responded it would not; bars currently have an all beverage license and they would continue to have that license. He said this bill provides that if they wanted a privilege of buying directly from the state warehouse they could with an additional endorsement on their existing license, and this anticipates that a small bar not wanting their own endorsement, could buy from another bar.

Rep. Jones's motion was voted on and carried with Reps. Bachini, Brandewie, Cohen, Hansen, McCormick, Nisbet, and Wallin opposed.

Rep. Jones moved the Statement of Intent for House Bill No. 562. The motion carried with Reps. Driscoll, Hansen, Nisbet, and Bachini opposed.

Rep. Driscoll asked if the purchase of inventory in the statement of intent, would cause a lot of freight costs to the Helena warehouse. Rep. Simon stated potentially it could cause freight costs to ship it back. He said the reason for it is to encourage the Department to keep the inventories at reasonable levels prior to the sale and secondly would allow some flexibility on the part of the person coming in who does not want the whole inventory.

Rep. Bachini stated he was concerned with the portion of the statement of intent regarding the state employees. He said if the people lose their jobs they will end up on unemployment roles and possibly welfare roles of the state, and the state would lose. He would rather see a directive to place these people.

Rep. Simon commented that the state could not be put in a position of dictating to the privately owned stores that they must hire these state employees, they couldn't be forced to hire an employee as a condition of the sale. He said the fact is that if the state continues on the course they are on right now, the state employees in the stores would be terminated by 1991 anyway, and all the bill does is set up a different plan for the type of system used in the future.

Rep. Brandewie moved an amendment regarding the renewal fees, on line 7, page 53, strike \$1200 and insert \$800. He said this would put the retail package store and those small unincorporated areas on an even scale. He stated that this

would make it equitable between the package stores and the bars.

There was continued discussion on the amounts of the license fees or endorsement license fees.

Rep. Simon stated he would not object to language making the renewal fee for package stores consistent with what the bars would have to pay including their renewal fee, but it should be consistent with the current license renewal fees.

Rep. Brandewie moved a substitute motion to include an amendment that it would not cost any more for the package stores to renew than it would cost the bar for his license and endorsement. The motion carried with Reps. Bachini, Driscoll, Hansen, and Nisbet opposed.

Rep. Pavlovich moved an amendment on page 44, line 22, to reduce the \$400 fee to \$200.

Rep. Pavlovich explained that in the bill it states a tavern would have to purchase another license, and in order to be consistent with Rep. Brandewie's amendment the fee should be changed to \$200. He said each small tavern could afford the \$200 to buy his own liquor.

Rep. Simon resisted the amendment and said the reason for the \$400 fee is 1) to encourage a combination to develop between bars so there are not 1,500 licensees all buying from the warehouse because the effect would be that it would cost a lot more to manage the warehouse, and 2) to provide some additional revenue to offset the additional operational costs of the warehouse. He said if that is reduced to \$200 the number of people buying from the warehouse would increase and at the same time increase the operational cost of the warehouse.

Rep. Pavlovich stated that would answer Rep. Bachini's concern. He said if all 1,500 people were buying from the warehouse they would need more employees and hire the people from the state store in the warehouse.

Rep. Driscoll stated there should not be any fee for buying from the warehouse, that the more people wanting to buy from the warehouse the more they would sell. He said he did not know of any private business that charged a fee to do business with them.

Rep. Hansen stated the scenario was a very clumsy way to do business.

Rep. Simon stated that presently no bar in the state could buy from the state warehouse in Helena. He said they were forced to buy from the state liquor store, and with the endorsement on their license, a privilege is added, and with that privilege is an added fee.

Rep. Pavlovich's motion was voted on and failed.

Rep. Driscoll asked when bidding for one of the state stores if a person would be required to post a bond for the amount that he states he would pay. Rep. Simon stated those kinds of rules and procedures on bids are set out in the state law.

Rep. Driscoll asked who would bid on these stores. He said a person could set up a package store and pay the \$15,000 fee and be able to set up the way they want and where they want. Rep. Simon responded that if a person wanted to be in the business, the only way would be to buy a state store. He said that a package store could not be licensed until January 1, 1990 under the provisions of the bill, and allows that those who want to get in the package store business have to buy an existing store.

Rep. Simon moved that House Bill No. 562 DO PASS AS AMENDED. The motion carried with a roll call vote of 11 to 7. Roll Call Vote No. 1.

ACTION ON HOUSE BILL NO. 475

Chairman Kitselman referred this bill to a subcommittee composed of Rep. Grinde, Rep. Glaser, and Rep. Cohen, with Rep. Grinde as chairman.

ACTION ON HOUSE BILL NO. 541

Rep. Smith moved that House Bill No. 541 DO PASS.

Chairman Kitselman moved an amendment on page 4, line 18 and to delete, "as defined by rules of the board", and insert, "the applicant must be certified by other specialized area certifying body".

He said the amendment was proposed because of the Attorney General's opinion that the Board does not have the authority to set the educational standards required for the nurses.

Rep. Glaser offered a substitute motion for an amendment to leave "as defined by rules of the board", and strike, "and certified by the American Nurses Association".

DAILY ROLL CALL

BUSINESS & LABOR

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 10, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

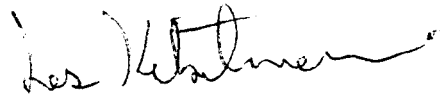
After discussion and the committee consensus that the amendment would not be appropriate, Rep. Glaser withdrew his motion.

Chairman Kitselman's motion was voted on and carried with Rep. Driscoll and Rep. Smith opposed.

Rep. Smith moved that House Bill No. 541 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

The meeting adjourned at 11:30 a.m.

A handwritten signature in cursive script, appearing to read "Les Kitselman", is written above a horizontal line.

REP. LES KITSELMAN, Chairman

ROLL CALL VOTE

BUSINESS & LABOR

COMMITTEE

DATE Feb. 10, 1987 BILL NO. House Bill 562 NUMBER 1

NAME	AYE	NAY
REP. LES KUTSELMAN, CHAIRMAN	✓	
REP. FRED THOMAS, VICE-CHAIRMAN	✓	
REP. BOB BACHINI		✓
REP. RAY BRANDEWIE	✓	
REP. JAN BROWN	✓	
REP. BEN COHEN		✓
REP. JERRY DRISCOLL		✓
REP. WILLIAM GLASER	✓	
REP. LARRY GRINDE	✓	
REP. STELLA JEAN HANSEN		✓
REP. TOM JONES	✓	
REP. LLOYD MCCORMICK		✓
REP. GERALD NISBET		✓
REP. BOB PAVLOVICH	✓	
REP. BRUCE SIMON	✓	
REP. CLYDE SMITH	✓	
REP. CHARLES SWYSGOOD	✓	
REP. NORM WALLIN		✓

TALLY

11 7

Elsie DeSene Armstrong
Secretary

Les Kutse
Chairman

MOTION: Rep. Simon moved that HB 562 DO PASS AS AMENDED.

Motion carried - 11 to 7.

STANDING COMMITTEE REPORT

February 10

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 562

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

RB 562

AMENDMENTS AS FOLLOWS

1. Page 1, line 13
Following: "16-2-303,"
Strike: "16-2-302, 16-2-303."

2. Page 1, line 17
Following: "16-2-301,"
Insert: "16-2-302, 16-2-303,"

3. Page 1, line 24
Following: "liquor"
Strike: "and table wine"

4. Page 11, line 3
Following: "liquor"
Strike: "and the sale of table wine"

5. Page 14, line 1
Following: "liquor"
Strike: "and table wine"

6. Page 14, line 4
Following: "liquor"
Strike: "and table wine"

7. Page 14, line 7
Following: "liquor"
Strike: "and table wine"

OR

8. Page 15, line 5
Following: "liquor"
Strike: "and table wines"

9. Page 13, line 1
Following: "liquors"
Strike: "and table wine"

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HB 562

AMENDMENTS AS FOLLOWS

10. Page 20, line 15

Following: "liquor"

Strike: "and table wine"

11. Page 20, line 22

Following: "liquor"

Strike: "and table wine"

12. Page 22, line 16

Following: "liquor"

Strike: "and table wine"

or

13. Page 22, line 24

Following: "liquor"

Strike: "and table wine"

or

14. Page 31, line 9, through page 32, line 2

Following: line 8, on page 31

Strike: sections 23 and 24 in their entirety

Renumber: subsequent sections

15. Page 33, line 25

Following: "is to"

Strike: "maintain a system for the importation and sale of wine by the state through the state warehouse and"

16. Page 44, line 18

Following: "liquor"

Strike: "and table wine"

17. Page 50, line 21

Following: "organization"

Insert: ", \$800 for a package store license,"

18. Page 51, line 4

Following: "organization"

Insert: ", \$900 for a package store license,"

19. Page 51, line 11

Following: "organization"

Insert: ", \$1,050 for a package store license,"

HB 562

AMENDMENTS AS FOLLOWS

20. Page 53, line 7

Following: "with"

Strike: "a \$1,200"

Insert: "an"

Following: "fee"

Insert: "as provided in subsection (7)"

21. Page 57, line 4

Following: "that"

Insert: "originally"

22. Page 57, line 7

Following: "not"

Insert: "originally"

23. Page 57, line 15

Following: "license."

Insert: "A licensee may purchase liquor from another licensee if the liquor was originally purchased from the state warehouse."

24. Page 59, line 1

Following: "16-2-301"

Insert: "through 16-2-303"

STANDING COMMITTEE REPORT

February 10

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 443

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☒ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENT AS FOLLOWS:

1) Page 6, lines 21 through 25

Following: "association;" on line 21

Strike: the remainder of line 21, lines 22 through 24
in their entirety, and line 25 through "board;"


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HOUSE BILL NO. 443

STATEMENT OF INTENT

A statement of intent is required for this bill because section 5 delegates authority to the board of psychologists to adopt rules defining unprofessional conduct for the purpose of establishing postlicensing conduct standards for licensees. Violation of the standards may be grounds for license disciplinary action.

STANDING COMMITTEE REPORT

February 10

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 94

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

Amendments As Follows:

1. Title, line 6
Following: "SECTIONS"
Insert: "33-16-1005,"

2. Page 1, line 19
Following: "chapter."
Insert: "The division and the rating organization shall exchange financial and statistical data, including but not limited to payroll exposure and accident information, for rate making experience modification and other purposes regardless of whether the division is a member of the rating organization."

3. Page 3, line 19
Following: line 13
Insert: "Section 3. Section 33-16-1005, MCA, is amended to read:
"33-16-1005. Membership in rating organization required--~~execution--~~filings with commissioner.
(1) Every insurer, including except the division of workers' compensation, writing workers' compensation insurance in this state shall be a member of a workers' compensation rating organization. No insurer may, at the same time, belong to more than one rating organization with respect to such insurance.
(2) A rating organization shall file with the insurance commissioner every manual of classifications and rules and every rating plan and advisory manual rates, including every modification of the foregoing. Every such filing shall state the effective date thereof. Any insurer writing pursuant to compensation plan No. 2 shall adhere to the manual rules and classifications and rating plans of the rating organization of which it is a member and may adopt by reference, in whole or in part, the advisory manual rates filed under this section. Nothing in this section, however, requires

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adherence by any insurer to any rates established or published by any rating organization."

Penumber: subsequent section.

STANDING COMMITTEE REPORT

February 10 19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 541

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSelman

Chairman

AMENDMENTS AS FOLLOWS:

1) Page 4, lines 18 and 19
Following: "equivalent" on line 18
Strike: the remainder of line 18 and line 19
through "and"
Insert: ". The applicant must be"

2) Page 4, lines 19 and 20
Following: "by" on line 19
Strike: the remainder of line 19 and line 20
through "other"
Insert: "a"

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STANDING COMMITTEE REPORT

February 10

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 537

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman


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reading copy (**WHITE**)
color



**Montana
Beer & Wine
Wholesalers
Association**

Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

2/10/87
HB 586

February 10, 1987

House Business & Labor Committee
Montana Legislature

Re: House Bill 586

Dear Mr. Chairman and Committee Members:

Rep. Gould introduced House Bill 586 at the request of our association in order to leave the legislature an alternative vehicle for clarifying table wine policy. It becomes necessary only if the LaFaver Plan, rather than the plans envisioned in HB 562 and HB 313, become the means by which the state pulls out of operating retail liquor stores. Any scenario which removes the state from the operation of retail liquor stores does away with the rationale for the dual wine distribution system enacted in 1979.

DOR's plans contemplate a network of agency stores operating on commissions set by a bidding process, somewhere between 5% and 10%, of the retail selling price of the liquor. An interpretation issued by the Department during the bid-letting process holds that an agent who is also a licensee for beer sales must choose between taking wine from distributors and taking wine from the state.

If a significant number of agents are grocery stores, they will have to choose, and we suspect they will generally choose to stay with the distributors. The reasons are the ability to sell table wine under license on Sundays, Mondays, and holidays, and the superior selection and service the distributors can provide a retailer. The only advantage of taking wine from the state is that the agent has no investment in the inventory, receiving it all on consignment. Plainly, if an agent can sell more wine with less employee effort, and move more of it within the seven days a distributor can extend credit, he will make more money taking wine from distributors.

The state has purchased table wines from distributors in the past, but at the warehouse in Helena. The only difference contemplated by HB 586 is that agents who were not grocery stores would order table wines from local distributors, and would have state warrants sent to pay the distributors for these deliveries. This way all agents would be on the same footing.

We would envision some rulemaking by the Department to set the markup around 20% to 25% of the delivered price, which would include tax. Department rules could also address payment procedures, etc., although as policies for the internal management of the agency they would not be "rules" as defined in the Administrative Procedure Act.

RT:ah

EXHIBIT 2
DATE 2/10/87
ID 586

LIQUOR RETAILING PROPOSAL
ADDENDA
October 31, 1986

5. What is meant by RLD Sales?

ANSWER: RLD sales are sales made to the retail licensed dealers (otherwise known as licensees or bars and taverns).

6. What is meant by non-RLD Sales?

ANSWER: Non-RLD sales are those sales made to walk-in customers.

310.00, Page 1, Number of Agencies per Bidder

1. The bidder's conference question and answer session suggested that a corporation can only have one agent operating within the entire state. Buttrey Food Corporation owns a store in each city of the State. Does this section mean that Buttrey Food and Drug, as a corporate entity, would be allowed only one agency within the entire state or could Buttrey Food and Drug have an agency in each town if the store manager was the liquor store agent?

ANSWER: The department in adopting criteria to establish agency operations has paralleled the philosophy of the Montana Alcoholic Beverage Code in the issuing of licenses which prohibits what is commonly referred to as "tied house" and "exclusive outlet" situations in the private sector. (42.12.101 ARM and Section 16-4-401; 16-3-242 and 16-3-406, MCA). Any person owning stock in a corporation which has entered into one agreement with the state to act as its agent at a specific location is not qualified to own an interest either as owner, partner or stockholder, in another agency agreement. However, any qualified individual may be an agent who leases space from an establishment in which another business is conducted, such as a grocery store. The relationship between the agent and the lessor must be arms length. Furthermore, if the lessor has a retail table-wine license, either the agent would have to elect to not have table wine distributed by the State and not carry wine in the agency premises, or the lessor would have to cancel its wine license in that location. If a bidder proposed a location in an establishment whose owner has a current retail table wine license, the bid proposal must either (1) state that the bidder agrees to not have table wine distributed by the state and not carry table wine in the agency premises, or (2) include an affidavit from the retail table wine licensee that at the agency conversion date, the licensee will cancel its license in that location.



Post Office Box 124 • Helena, Montana 59624 • Telephone (406) 442-4451

2/10/87
HB 586

February 19, 1987

TO: House Business & Labor Committee

RE: HB 586 by Gould

Dear Committee Members:

In view of the difficulties which the bills making bigger changes in the Liquor Recovery Plan have encountered in the past week, we must ask you to take another look at our table wine bill.

I submit amendments to address the technical problems raised by Mr. Blewett. First, he asked about the bill's effect on existing agency agreements. The amendment would grandfather those agreements so that the agents could continue to order wine from the state if they wished. Second, he wondered how the agents ordering wine from local distributors would handle the cash. The Department can address this with a rule, which the proposed statement of intent could cover.

Mr. Strobe testified for the Tavern Association as an opponent, but his only point was the delayed effective date. We drafted the bill with a July 1989 effective date in anticipation of a fiscal note with negative input from DOR. However, the fiscal note came out fairly and correctly. Thus, we could go with an effective date this year, since it would apply under the first amendment to agency agreements signed after next April.

RT:ah

Roger Tippy

Amend HB 586, first reading bill, as follows:

EXHIBIT 3
DATE 2/10/87
HB 586

1. p. 1, line 18
Following: "agent"
Strike: "of"
Insert: "appointed by"
Following: "department"
Insert: "after May 1, 1987"
2. p. 1, line 24
Following: "stores,"
Insert: "or agency stores appointed on or
before April 30, 1987,"
3. p. 2, line 21
Following: "effective"
Strike: "July 1, 1989"
Insert: "May 1, 1987"

STATEMENT OF INTENT

A statement of intent is required for HB 586 because it contemplates a modification of the department of revenue's existing rule establishing a markup on table wine. This bill is intended to equalize the status of agency liquor stores established in the future between stores which hold wine retailing licenses (e.g. grocery stores or pharmacies) and agency stores which do not hold wine licenses. The latter class of agents may purchase table wine from local wine distributors with their own funds, should they choose to do so, as the agents with wine licenses will be doing. The department should set a markup reflective of market conditions in wine retailing. The agent would remit to the department that portion of the markup remaining after the agent's commission comes out. The agent would also retain so much of his receipts from table wine sales as reflects the cost of the wine to him, in order to replenish inventory.

House BILL NO. 586

INTRODUCED BY [Signature]

A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE STATE LIQUOR DIVISION'S MARKETING ARRANGEMENTS FOR TABLE WINE; AMENDING SECTIONS 16-2-301, 16-2-302, AND 16-3-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-2-301, MCA, is amended to read:
"16-2-301. Retail selling price on table wine sold by the state. (1) The retail selling price at which table wine is sold by the department shall be through a state employee-operated store is computed by adding to the statewide weighted average cost of table wine the tax and state markup as designated by the department."

(2) The retail selling price at which table wine is sold by a commission agent of the department is computed by adding to the delivered cost of the wine from the distributor a separate markup designated by the department."

Section 2. Section 16-2-302, MCA, is amended to read:
"16-2-302. State distribution. The department may import and distribute one or more named table wines to one or more designated state employee-operated liquor stores, in the same manner as if the table wine contained more than 14%

alcohol by volume."

Section 3. Section 16-3-403, MCA, is amended to read:
"16-3-403. To whom table wine distributor may sell.

(1) A table wine distributor may sell and deliver table wine purchased or acquired by him to:

(a) another table wine distributor, retailer, or common carrier which holds a license issued by the department of revenue; or to;

(b) the department; and

(c) a commission agent of the department.

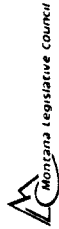
(2) It shall be unlawful for any table wine distributor to sell, deliver, or give away any table wine to be consumed on such distributor's premises or to give, sell, deliver, or distribute any table wine purchased or acquired by him to the public."

NEW SECTION. Section 4. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 5. Effective date. This act is effective ~~July 1, 1987~~ May 1, 1987

-End-

or agency stores appointed on or before April 30, 1987



INTRODUCED BILL

HB-586

HB 4
DATE 2/10/87
HB 562

Roger Tipton
Amendment
#1

Amend HB 562, first reading, as follows:

Title, p. 1, line 13
Following: "16-2-203,"
Strike: "16-2-302, 16-2-303,"

Title, p. 1, line 17
Following: "16-2-301,"
Insert: "16-2-302, 16-2-303,"

P. 1, line 24
Following: "liquor"
Strike: "and table wine"

P. 12, line 4
Following: "liquor"
Strike: "and the sale of table wine"

P. 14, line 1
Following: "liquor"
Strike: "and table wine"

P. 14, line 4
Following: "liquor"
Strike: "and table wine"

P. 14, line 7
Following: "liquor"
Strike: "and table wine"

P. 15, line 5
Following: "liquor"
Strike: "and table wines"

P. 18, line 1
Following: "liquors"
Strike: "and table wine"

P. 20, line 15
Following: "liquor"
Strike: "and table wine"

P. 20, line 22
Following: "liquor"
Strike: "and table wine"

P. 22, line 16
Following: "liquor"
Strike: "and table wine"

P. 22, line 24
Following: "liquor"
Strike: "and table wine"

P. 31, line 9
Following: "liquor"
Strike: "and table wine"

Strike: Sections 23 and 24 in their entirety.

Renumber: following sections.

P. 33, line 25

Following: "is to"

Strike: "maintain a system for the importation and sale of
wine by the state through the state warehouse and"

P. 44, line 18

Following: "liquor"

Strike: "and table wine"

p 59, line 2

Following: "16-2-301"

Insert: "16-2-302, 16-2-303,"

HOUSE BILL 562
(White Copy)
Subcommittee's Proposed Amendment

1. Page 57, line 4.
Following: "that"
Insert: "originally"

2. Page 57, line 7.
Following: "not"
Insert: "originally"

3. Page 57, line 15.
Following: "license."
Insert: "A licensee may purchase liquor from another licensee if
the liquor was originally purchased from the state
warehouse."

6
2/10/87
HB 562

Statement of Intent
House BILL No. 562

A statement of intent is provided for this bill to give guidance to the department of revenue in the sale of existing state retail liquor stores.

State employees: The legislature intends that the department of revenue be sensitive to the needs of state liquor store employees whose jobs will terminate because of the sale of state stores. The department is urged to assist these employees in seeking other state employment, whenever appropriate.

Bids for the purchase of state stores: The legislature intends that there be three elements of a bid to purchase a state store:

- (1) the store's inventory to be sold at 80% of the value at the retail price, including taxes, as determined by the department;
- (2) the cost of a package store license; and
- (3) store furniture and fixtures, leases, if any, related merchandise and equipment, and other intangibles that the bidder may include to secure the purchase.

Purchase of inventory: The legislature intends that a purchaser may refuse to buy any unbroken cases contained in the store's inventory.

Termination of existing agency agreements: The legislature intends that whenever the department is able to negotiate the termination of an agency agreement, the termination be done in a fair manner.

COMMITTEE

DATE February 10, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE

SPONSOR Rep. Robert Pavlovich

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 476

DATE February 10, 1987

SPONSOR Rep. Budd R. Gould

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Bob Durkee	MTA	X	
Phil Atrope	MTA	X	
R. Budd Gould	Self	✓	
Phil Benson	MTA MUSIC RENTALS	X	
Randy A. Leep	D & R MUSIC	X	
Pat Coule	Self	X	
Phil Schneider	Self	X	
Jerry Bitter	Self	X	
D. Larson	MTA	X	
John G. Porter	MCOA	X	
Larry Lygin	D & R MUSIC	X	
Gay Bennett	MCOA	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

REFERENCES

DATE February 10, 1987

SPONSOR Rep. Jack Sands

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

BUSINESS AND LABOR

BILL NO. House Bill No. 586

DATE February 10, 1987

SPONSOR Rep. Budd R. Gould

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 537 DATE February 10, 1987SPONSOR Rep. John Patterson

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
JAMES W. BORCHARDT	STATE AUDITOR	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE

DATE February 10, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.