

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

February 24, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on February 24, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

EXECUTIVE ACTION

ACTION ON HOUSE BILL NO. 810

Rep. Nisbet moved that House Bill No. 810 be lifted off the table. The motion carried with four opposed.

Rep. Nisbet moved that House Bill No. 810 DO PASS.

Rep. Nisbet moved the amendments.

Rep. Driscoll moved that House Bill No. 810 DO PASS AS AMENDED. The motion carried with Reps. Thomas, Jones, Grinde, and Brandewie opposed.

ACTION ON HOUSE BILL NO. 586

At the Committee's request Roger Tippy further explained the bill and the amendments.

Rep. Grinde moved that House Bill No. 586 be lifted from the table. The motion carried with Rep. Nisbet and Rep. Bachini opposed.

Rep. Thomas moved that House Bill No. 586 DO PASS.

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

Rep. Thomas moved to adopt the statement of intent for House Bill No. 586. The motion carried unanimously.

Rep. Jones moved that House Bill No. 586 DO PASS AS AMENDED. The motion carried with Reps. Bachini, Nisbet and Cohen opposed.

HOUSE BILL NO. 847 - Workers Compensation Division May Cancel Plan No. 3 Employer for Unsafe Workplace, sponsored by Rep. Paul Rapp-Svrcek, House District No. 51, Thompson Falls. Rep. Rapp-Svrcek stated that the reason for this

bill is because of the number of problems faced by the Workers' Compensation area, and one of the problems they face is one of unsafe employers. He said the bill provides that in the case of an unsafe employer the Division may cancel his/her workers' compensation insurance and assess a penalty. He added that the bill requires that the Division report unsafe workplaces to OSHA for further action.

PROPOSERS

None.

OPPOSERS

None.

QUESTIONS

Rep. Smith asked if the Safety Bureau have any enforcement powers. Jim Murphy, Workers' Compensation Division, responded that they were preempted by OSHA, which is the enforcement for safety within the state with the exception of public corporations.

Rep. Simon asked if the employer was offering an unsafe workplace and their insurance was cancelled, would that close down their operation. Mr. Murphy responded that it would not automatically shut them down, but the Insurance Compliance Bureau would make a determination that they do not have coverage and issue a closure order, which is enforced by the county attorney if the order is not complied with.

Rep. Simon asked how long the process for closure would take. Mr. Murphy responded that the issuing for the closure order could come fairly quickly, and the enforcement of that closure order would depend on whether the county attorney wanted to enforce it and how fast.

Rep. Simon stated from the time that the Division cancels the employer's coverage and until that facility was shut down, there wouldn't be any coverage for the employees working in that unsafe condition, and asked if that was the effect of the bill. Mr. Murphy responded that was correct.

Rep. Wallin stated that this would provide an excuse for every workers' compensation insurance writer to leave Montana, or not write the insurance. He said they are looking for an excuse now not to write it and it is extremely difficult to acquire.

Mr. Murphy stated that it does not affect employers that have insurance with insurance carriers, but if the state fund cancels because of an unsafe condition, they might have a problem acquiring the insurance.

OSING

Rep. Rapp-Svrcek stated that unsafe employers drive the workers' compensation rates up for safe employers. He said private carriers have this system in place right now, and all the workers' compensation legislation has been with the help and input of people who have worked in the private workers' compensation industry for several years. He said he realized this bill would affect employers in the state adversely, but the ones that are going to be affected are the ones that are causing the workers' compensation rates to increase drastically, while they are undertaking unsafe working conditions in their place of business.

EXECUTIVE ACTION

ACTION ON HOUSE BILL NO. 847

Rep. Cohen moved that House Bill No. 847 DO PASS.

Rep. Cohen moved the amendments in section 6, line 23, and in the title, delete reference to OSHA regulations.

Rep. Smith commented that he thought the amendment was a good idea, but the problem was that the state did not have those safety inspectors.

Rep. Brandewie commented that right now the employer's premium rates can be raised, but this bill would cancel their coverage on the employer's business and the employees can still be exposed to the unsafe conditions and they won't be covered. He thought this would be unwise.

Rep. Driscoll commented that the unsafe employer causes everybody's insurance premium rates to increase, and there should be some way to shut them down. He said there needs to be a way to get rid of the unsafe employers, and OSHA does shut them down.

Rep. Brandewie stated he did not disagree with Rep. Driscoll, but this bill was not the vehicle to do that because it did not provide that if the insurance coverage was cancelled, the employer's business would be shut down immediately so that the employees are not exposed to any more hazardous conditions.

Rep. Brandewie moved that House Bill No. 847 BE TABLED. The motion carried with Reps. Pavlovich, Hansen, Cohen, Brown and Driscoll opposed.

ACTION ON HOUSE BILL NO. 789

Rep. Simon moved that House Bill No. 789 DO PASS.

Rep. Simon explained the amendments proposed by the subcommittee. He said they were attempting to define what a transfer facility is, which is in amendment No. 4, and in amendment No. 7, refers to the permitting requirements. See Standing Committee Report.

Rep. McCormick moved that House Bill No. 789 BE TABLED. The motion failed.

Rep. Smith asked Rep. Simon if he could term this as a hazardous waste facility siting act.

Rep. Simon responded that it does seem that way, but the original statement of intent had location included in it which would have made it, in his opinion, a siting act, but these rules will not include location, and this is not intended to be a facility siting act for waste transfer facilities.

Rep. Simon commented that under current law there could be hazardous waste being stored for a period of less than 10 days in any truck terminal in the state of Montana.

Rep. Smith asked if different materials have to be disposed of in different places. Rep. Simon responded that was correct.

Rep. Smith asked if a facility had material that was particularly hazardous that had been stored for 10 days in the terminal, what could be done with it. Rep. Simon responded that the generators of this type of material collect the material on their site, and store it for up to 90 days on their own site, and the company has a contract with a storage place.


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

Rep. Brandewie moved that the statement of intent be adopted. The motion carried with Reps. Swysgood, McCormick, and Driscoll opposed.

Rep. Brandewie moved that House Bill No. 789 DO PASS AS AMENDED. The motion carried with Reps. Kitselman, Thomas, Swysgood, and McCormick opposed.

ADJOURNMENT

The meeting adjourned at 8:45 a.m.



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REP. LES KITSELMAN, Chairman

DAILY ROLL CALL  
 BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 24, 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	✓		

# STANDING COMMITTEE REPORT

February 24

19 87

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

report HOUSE BILL NO. 310

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 1, lines 19 and 20  
Following: "local public" on line 19  
Strike: "or private nonprofit"

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# STANDING COMMITTEE REPORT

February 24

19 87

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

report HOUSE BILL NO. 789

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 4  
Following: "OPENING A"  
Insert: "HAZARDOUS WASTE"

2) Title, line 7  
Following: "CONCERNING"  
Insert: "HAZARDOUS WASTE"

3) Title, line 9  
Following: "DATE"  
Insert: "AND AN APPLICABILITY DATE"

4) Page 3, line 3  
Following: line 2  
Insert: "(D) 'Hazardous waste transfer facility' means any land, structure, or improvement, including loading docks, parking areas, holding areas, and other similar areas, whose primary purpose is the transportation and temporary storage of hazardous wastes and where shipments of hazardous waste are temporarily held for a period of 10 days or less during the normal course of transportation up to but not including the point of ultimate treatment, storage, or disposal."

Re-number: subsequent subsections

5) Page 3, line 14, through page 4, line 5  
Strike: subsection 13 in its entirety  
Re-number: subsequent subsections

6) Page 3, line 9  
Following: "for"  
Insert: "hazardous waste"

7) Page 8, line 10  
Following: "facilities."  
Insert: "These permitting requirements do not extend to common carriers, as defined under the Federal Motor

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AMENDMENTS AS FOLLOWS: CON'S

Carrier Act or Title 69, chapter 11, whose transportation of hazardous waste is a minor part of their commodity transportation activity.

(3) Permitting requirements in rules adopted under subsection (2)(4) do not apply to hazardous waste transfer facilities that were in operation on June 30, 1987."

STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates rulemaking and permitting authority to the department of health and environmental sciences. House Bill 789 adds transfer facilities operated by hazardous waste transporters to the category of facilities that require permits under the Montana Hazardous Waste Act.

It is the intent of the legislature that the department adopt and implement administrative rules that will ensure that proposed hazardous waste transfer facilities undergo a review and approval process before the commencement of waste handling activities.

The legislature intends that the administrative rules developed by the department to implement House Bill 789 should be similar to those rules applicable to hazardous waste management facilities that store wastes for longer periods of time. The department may develop rules for transfer facilities that are less restrictive or less encompassing than those for long-term storage facilities, but may not adopt rules that are more restrictive or more encompassing than those for long-term storage facilities. The department may not adopt rules that are more restrictive or broader in scope than the comparable rules for hazardous waste management facilities that store wastes for longer periods of time.

The legislature understands and intends that the rules developed by the department to implement House Bill 789 must include the following:

- (1) preparedness for hazardous waste emergencies;
- (2) development of emergency contingency plans;
- (3) training of transfer facility personnel;
- (4) security provisions at transfer facilities;
- (5) hazardous waste drum handling, temporary storage methods, and containment requirements that minimize the possibilities of leaks, spills, off-site releases, or similar accidents; and
- (6) the proper design of transfer facilities to prevent threats to adjoining property and to environmental resources.

# STANDING COMMITTEE REPORT

February 24

19 87

## BUSINESS AND LABOR

Mr. Speaker: We, the committee on

### HOUSE BILL NO. 586

report

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 1, line 10  
Following: "agency"  
Strike: "of"  
Insert: "disappointed by"  
Following: "department"  
Insert: "after May 1, 1987"

2) Page 1, line 24  
Following: "before,"  
Insert: "for agency which appeared on or before April 30,  
1987,"

3) Page 2, line 21  
~~Following: "the"~~  
Strike: "July 1, 1987"  
Insert: "May 1, 1987"

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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.

