

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 30, 1987

The twelfth meeting of the Business and Industry Committee was called to order by Chairman Allen C. Kolstad at 10:00 a.m. on Friday, January 30, 1987, in Room 410 of the Capitol.

ROLL CALL: All committee members were present except Sen. Delwyn Gage.

CONSIDERATION OF HOUSE BILL NO. 98: Representative Rex Manuel, House District 11, Fairfield, is the chief sponsor of this bill. He stated that HB 98 deals with farm mutuels and they are requesting that they have an option to sell liability insurance. He explained that in the house subcommittee some changes were made because they felt that any existing authority of the commissioner of insurance to make rules should be extended to the provisions of this act, be in line with the rules and regulations of the Insurance Commissioner, and be more clearly spelled out. One of those rules is that the person selling liability has to have a license and a person who is employed as a receptionist or secretary, etc. can't sell it or give out information on it without a license. On page 2, line 19, the subcommittee felt that it should be spelled out also that a farm mutual insurer may insure against the liability risks provided in 33-1-206(1)(b) only to the extent of the limit of risks provided in 33-4-502(3) and only if every policy bears on its face in boldface type a statement that each member of the farm mutual insurer is subject to a contingent liability under 33-3-411.

PROPOSERS: Mr. Harold Klinker, Cascade Farmers Mutual Insurance Company, Fairfield, stated that during the last number of years Farm Mutual of Montana has been having a problem with losing their members. This happens because they cannot sell liability coverage. When their clients try to buy just liability from another company, they are being forced into buying a complete package from the other company. There are still a few companies that you can possibly add on with your vehicle insurance, but it is generally very difficult to get the liability coverage. Mr. Klinker feels that this bill will enable farm mutuels to provide a more complete package for their policy holders.

Mr. James Borchardt, State Auditor's Office, Helena, stated that when Mr. Klinker came to his office with the

proposal for HB 98, they were concerned because liability insurance is a more volatile, risky line of business. They wanted to be sure that these relatively small insurers were safeguarded so that if they should write it, and there were a large loss, the policy holders would be adequately protected. He stated that one way this can be done is to require a minimum amount of reinsurance. That is addressed in this bill where it indicates that even in a worst case scenario, if losses should be absolutely horrendous, the most surplus or net worth that a farm mutual could lose would be the smaller of either \$200,000 or 20% of that farm mutual's net worth. Mr. Borchardt explained that the bill also requires that in order for a farm mutual to write liability in the first place they must have a minimum of \$50,000 in surplus. He noted that in Wisconsin they have permitted farm mutuals to sell liability policies for at least 13 years, and it has worked successfully there.

Mr. Roger McGlenn, Executive Director of the Independent Insurance Agents Association of Montana, stated that they feel that this is a well drafted bill with ample protection for the Montana insurance consumer. They support the bill as amended in the House and also would encourage an amendment which would make the farm mutuals for their liability coverages responsible for the Montana State Premium Tax, as the private carriers are. They feel that this would create an equal playing field and equal taxation with other private carriers.

Mr. Norman Jackson and Mr. Bill Thrasher with Cascade Co. Mutual Insurance asked that their names be entered into the minutes as proponents of HB 98.

OPPONENTS: There were no opponents to HB 98.

DISCUSSION OF HOUSE BILL NO.98: Chairman Kolstad called for questions from the committee. Sen. Williams wanted to know about the amendments suggested by Mr. McGlenn and Mr. McGlenn said they were not completed yet, but they would get them to the Committee.

Chairman Kolstad asked Rep. Manuel how he felt about the proposed amendment and he answered that they discussed it in the committee and in the subcommittee. The subcommittee voted not to recommend the amendment which required the payment of the premium taxes. He felt that it just opens up a whole controversy. Chairman Kolstad then asked Mr. McGlenn what effect the tax would have and

Mr. McGlenn answered that he would like to make it clear that they were not asking for a premium tax on the fire and EC coverages that the farm mutuals provide at the present time. They would like to consider adding the tax for the liability coverages being proposed in this bill, only. The effect would be 2.75 %, the same as other stock and mutual companies are currently assessed in the State. Chairman Kolstad asked Mr. Borchardt to expand on that and Mr. Borchardt stated that it was his understanding that one of the reasons there has been no premium tax on property and extended coverage for farm mutuals was to permit them to offer that coverage at the lowest possible, reasonable rate to farmers and ranchers, and that is why when the original legislation went through there was no consideration for premium tax. Sen. Walker asked Rep. Manuel if he could add to that and he noted that the coverage offered by farm mutuals is strictly for farmers and ranchers who live away from fire protection. Previously they could not get insurance and then farm mutuals were formed to fulfill that need. That is why no tax was considered then, and he feels that it shouldn't be considered now. Sen. Thayer asked Rep. Manuel to list some of the well-known companies that this would pertain to. Rep. Manuel answered that Cascade Mutual is probably the largest but there are twelve in the state. They are as follows: Cascade County Farmers' Mutual; Farmers' Mutual Fire Insurance Association of Ravalli County; Farmers' Mutual Fire Insurance Company; Farmers' Mutual Fire and Lightning Insurance Association of Fergus County; Farmers' Mutual Fire and Lightning Insurance of Wibaux, Dawson, Fallon, Custer, and Richland Counties; Flathead Farmers' Mutual Insurance Company; Lake County Farmers' Mutual Insurance Company; Mutual Rural Insurance Company of Gallatin County; Tri-County Farmers' Fire Insurance Company; Mutual Rural Insurance Company of Richland County; Westland Farm Mutual Insurance Company; and, Wheatgrowers Farm Mutual Insurance Company. Sen. Thayer asked Mr. Borchardt to define "liability" as pertaining to this bill and Mr. Borchardt deferred to Mr. Klinker. Mr. Klinker told the committee that he has his policy through State Farm and his coverage is extended to cover anything that might happen on his property from his bull getting out and doing some damage to a hunter tripping and falling while on his property, a controlled burn getting away, or perhaps crop spray landing on someone else's crops. Sen. Thayer asked if he anticipated any problems in getting reinsurance and he answered that their association had had some proposals but hadn't gotten into it too much because they weren't able at that time to proceed. He commented

that regarding the tax exempt premium, the need is still the same as 40 or 50 years ago when farm mutuals began. Further, if the need wasn't there for liability coverage, they certainly would not be proceeding with this bill. Sen. Weeding inquired about the limits set by the bill and Mr. Klinker answered that they felt that the bill was very conservative, but he feels that they have to be able to offer at least a million dollars in coverage to protect the farmers and ranchers they are serving. Sen. Weeding wanted to know if a million would be the highest limit that farm mutuals would be able to offer. Mr. Borchartd answered that there is no limit on the amount of insurance that may be offered, but depending on the size of the farm mutual, there are limits on how much they may retain. If a farm mutual has a million dollars of surplus, they may retain on each individual policy, regardless of how large that policy is, fifteen percent. In the aggregate, the amount of the retention for that farm mutual for the entire year, cannot be any more than \$200,000 or 20% of its surplus, whichever is smaller. Mr. Borchartd then explained that any amount over the \$200,000 or 20% would fall on the reinsurer. Sen. Thayer asked Mr. McGlenn if they felt the bill adequately protected the consumer, and he answered that they do. Mr. McGlenn then explained that he did not want to give the impression by proposing the premium tax amendments, that they were trying to increase the cost to the agricultural community, nor are they trying to harm the bill. They would just like to look at equal taxation and equal, competitive bills.

The hearing on HB 98 was closed.

CONSIDERATION OF SENATE BILL NO. 201: Sen. Peter Story, Senate District 41, Emigrant, is the chief sponsor of this bill. He explained that this bill came about on behalf of Chico Hot Springs, a very important business in his area. This bill changes the definition of "premises" with regard to serving alcoholic beverages at other locations on the property of a person or business having a liquor license. The operators of the Chico Hot Springs wished to have a social activity in a barn on their property, and wished to serve alcoholic beverages there. When they inquired about this at the liquor division, they were told that they would either have to fight the rule in court, or they would have to get a change in the definition of what a "premise" is. He also explained that he is very aware that the liquor license quotas are very important to the Tavery Association, and he had agreed not to get anything passed that would open the quota significantly in any way.

PROPOSERS: There were no further proponents to SB 201.

OPPOSERS: Bob Durkee, Helena, Montana Tavern Association, stated that always when you try to take care of one little individual business with legislation, it causes trouble, because the impact is statewide, generally. Their concern is that a shopping mall, for instance, with one liquor license could service five or six other places within the same mall, and there aren't any covered malls that have public thoroughfares running through them yet. As you are all aware they are getting bigger and bigger, and that may happen soon. He stated that they would work with Sen. Story on some new language so they would like to ask the committee to forestall any decision until they get it worked out to their satisfaction, if that would be agreeable.

DISCUSSION OF SENATE BILL NO. 201: Sen. Boylan asked if they could function with this under the catering system somehow, and Sen. Story answered that he thought that those rules had been drawn up pretty tightly so that that would not work for them. He deferred to Gary Blewett, Administrator, Liquor Division, who explained that the catering rules are tied to a specific event and there has to be a special license issued three days prior to the event. The situation at Chico is an ongoing process which would eliminate it from the catering category. Sen. Thayer wanted to know why the language pertaining to sidewalk cafe, etc., was included, and Sen. Story answered that it was in there to limit it to a thousand feet so that another guest ranch, which sometimes has functions outside, can do that legally instead of having to track back and forth between their bar and the corral, Sen. Walker asked if they couldn't just limit this bill to dude ranches and Sen. Story answered that they couldn't because there was a little place in Billings by the name of Dude Ranch which has nothing to do with being an actual dude ranch. Sen. Williams wanted to know if they couldn't limit it to three nights a week and Sen. Story answered that the bill then would not serve the purpose for which it had been intended.

Sen. Story closed the hearing on SB 201 by stating that he would like to come back with some further amendments after having worked with the attorney of the Tavern Association to try to come up with a better defined bill which would be acceptable to both parties. Chairman Kolstad asked that Sen. Story work with the Tavern Association and the B

& I Committee Researcher, Mary McCue, and then the committee would take the bill under further consideration.

EXECUTIVE ACTION ON SENATE BILL NO. 130: After study by the committee of the Fiscal Note for SB 130, it was concluded that any financial impact apparently would be at the local levels rather than at the state level, and that there would be no added expense to the State. A MOTION was made by Sen. Walker and seconded by Sen. Williams that SB 130 be given a DO PASS recommendation from the committee. The MOTION PASSED UNANIMOUSLY.

RECONSIDERATION OF HOUSE BILL NO. 68: A motion by Sen. Thayer, seconded by Sen. Walker that HB 68 be reconsidered passed unanimously. Committee Researcher, Mary McCue explained that there has been some confusion concerning amendments to this bill and the sector who proposed the bill has some amendments which they would like brought before the committee. Mr. Clayton Bain, Chairman of the Board of Private Security Patrolmen & Investigators, stated that he met with George Allen, the representative of the Retail Merchants' Association, and assured him that if he was not satisfied with the fact that they felt the bill as written did what he was trying to do, he would come back to the committee with an amendment that would do what the Retail Merchants are trying to do. Mr. Bain explained that the question pertains to the definition of "merchant" acting under the provisions of section 46-6-502 which is the shoplifting provision in the law. That terminology states that a private person may arrest another when he is a merchant as defined in 30-11-301, and believes on reasonable grounds that the person arrested has committed a shoplifting offense. Mr. Bain feels that that section would take care of what Mr. Allen was trying to accomplish which is, that an employee of a merchant who witnesses a shoplifting offense can make an arrest and not be required to be licensed. Sen. Thayer stated that one of the concerns of the Retail Merchants is that if a store employs their own security people, they don't want to have to buy a separate license for their own store employee just because they happen to be hired as security. Sen. Thayer wanted to know if this bill covers that. Mr. Bain answered that it does not and that one of the original purposes included what are called proprietary security people who are hired by a firm to protect their own internal interests. They could be called security guards, etc. Mr. Bain stated that the Board feels that they should be required to be licensed and should be under the control of the state so that they are trained and have

knowledge of what their rights are as security guards and so that the rights of the public are not trampled. One of the original reasons for a law requiring training stemmed from shoplifting arrests by security people of retail merchants who acted improperly. Lawsuits were instigated because of the botched arrests and there were a lot of problems. Mr. Bain stated that the Board opposes any amendment which would exempt them from the training provisions. He stated further that the Private Security Association is in opposition to any such amendment and they had discussed it with him. Sen. Thayer stated that he was not taking a position on the question, but that Mr. Allen had told him that many of their stores are already purchasing seven or eight licenses and this just seems to be one more license to contend with and pay for. They feel that they have their own means of training security people and do not need further programs for training. Chairman Kolstad asked Mr. Bain if he saw that as a real concern and Mr. Bain answered, "Yes." The Board disagrees with Mr. Allen in that he is referring to training programs that some firms do have such as J. C. Penny Co. They do have an excellent training program and the Board has no quarrel with that. However, the Board does not feel that they should exempt one class of people from another class when they are making laws for the entire state, because some stores do not have good training programs and they hire people who they shouldn't be hiring and that is why the Board insists they should have control over those kinds of situations. Chairman Kolstad asked if the training program would in effect then be a duplication of effort for certain businesses in Montana, and Mr. Bain answered that they would recognize certain training programs that would meet their requirements. Chairman Kolstad then asked if the Board would make that determination, and Mr. Bain answered, "Yes." Sen. Walker wanted to know if under the amendment proposed by Mr. Bain, an individual hired for security reasons didn't call himself a security guard, he could make arrests in the store as just an employee, and wouldn't have to be licensed. Mr. Bain answered that he wasn't looking at it from that angle, but that Sen. Walker may be right about that. Sen. Thayer wanted to know if it would be possible to have a provision that if the Board recognized a certain institution as meeting all the training requirements, they could be exempt from the training, but not the licensing. Mr. Bain stated that one of the armoured car services has their own training program which meets the Boards requirements and they are certified as a certified training program. He stated that there are several other

recognized programs, and those people are not required to repeat the state's training program. Sen. Boylan asked if they licensed them, and Mr. Bain answered, "Yes." Chairman Kolstad stated that the committee would not take further action on this bill until next week in an attempt to better understand all proposed amendments and exactly what is attempting to be accomplished by HB 68.

EXECUTIVE ACTION ON SENATE BILL NO. 79: Chairman Kolstad asked Ms. McCue to explain the status of this bill. Ms. McCue explained that she had talked to Sen. Halligan, sponsor of the bill, and he asked her to draw up further amendments that would eliminate the involvement of the State Fire Marshal and change the bill to state that notwithstanding the exclusion, on the sale or transfer of a residence, the seller shall certify that it has smoke detection equipment. That would be on the RTC and the bill would not have the option of getting a certification from the State Fire Marshal. It would take out the money part of the bill and takes out the entire section regarding the \$25 fee.

Sen. Darryl Meyer made a MOTION that the amendment to SB 79 BE ADOPTED and it was seconded by Sen. Thayer. The MOTION PASSED UNANIMOUSLY.

Sen. Cecil Weeding made a MOTION that SB 79 be given a DO PASS AS AMENDED recommendation which was seconded by Sen. Mike Walker. The MOTION PASSED UNANIMOUSLY.

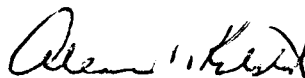
DISPOSITION OF SENATE BILL NO. 202: Sen. Cecil Weeding made a MOTION that SB 202 be given a DO PASS recommendation. The Motion was seconded by Sen. Darryl Meyer. The MOTION PASSED with Sen. Paul Boylan and Sen. Ted Neuman Voting "NO".

Chairman Kolstad announced that the committee will not take action on HB 98 until the members have time to further study the bill and proposed amendments. It is the general concensus at this time that it would not be proper to tax just one segment of the mutual insurances.

The next meeting of the Business and Industry Committee will be on Tuesday, February 3, 1987.

There being no further business, Chairman Kolstad adjourned the meeting at 11: 21 a.m.

Business & Industry Committee
January 30, 1987
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SENATOR ALLEN C. KOLSTAD, CHAIRMAN

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ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/30/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
DELWYN GAGE		✓	
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

DATE

1/30/87

COMMITTEE ON

Business + Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
THRASHER BILL	CASCADE CO. MOUNTAINS INS	98	<input checked="" type="checkbox"/>	
JACKSON Norman	" " " "	98	<input checked="" type="checkbox"/>	
Harold Klinkov	" " " "	98	<input checked="" type="checkbox"/>	
Jim Borchardt	State Auditor's Office	98	<input checked="" type="checkbox"/>	
ROGER McGLINN	INDEPENDENT INS. AGENTS ASSOC. OF MONTANA	98	<input checked="" type="checkbox"/>	AMEND

(Please leave prepared statement with Secretary)

DATE 1/30 87

COMMITTEE ON Business + Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bob Durkee	MTA - HELENA	201		X
Walter Durkee	Mont. Tavern Assn	201		X

STANDING COMMITTEE REPORT

JANUARY 30,

19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE BILL No. 130

FIRST reading copy (WHITE)
color

ALLOW PARIMUTUEL BETTING ON NATIONAL RACES SUCH AS KENTUCKY DERBY

Respectfully report as follows: That SENATE BILL No. 130

be amended as follows:

1. Title, line 6.
Following: "ON"
Insert: "CERTAIN"
2. Page 2, line 10.
Following: "travers;"
Insert: "and"
3. Page 2, line 11.
Following: "futurity"
Strike: "; and"
Insert: "."
4. Page 2, lines 12 and 13.
Strike: subsection (f) in its entirety

AND AS AMENDED,

DO PASS

~~XXXXXX~~
~~DO NOT PASS~~


.....
SENATOR KOLSTAD,

Chairman.

STANDING COMMITTEE REPORT

JANUARY 30,

1987

MR. PRESIDENT

BUSINESS AND INDUSTRY

We, your committee on

having had under consideration

SENATE BILL

No. **79**

FIRST reading copy (**WHITE**)
color

SMOKE DETECTORS IN HOMES SOLD OR TRANSFERRED

Respectfully report as follows: That

SENATE BILL

No. **79**

BE AMENDED AS FOLLOWS:

1. Title, line 5.

Strike: "COMPLIANCE WITH THE STATE FIRE MARSHAL'S RULES ON"

2. Title, line 7.

Following: "SECTIONS"

Insert: "15-7-305 AND"

3. Title, line 8.

Strike: "AND 70-21-201"

4. Page 1, lines 12 and 13.

Strike: "-- inspection of residence upon request"

5. Page 1, line 17.

Strike: ":",

Insert: ":",

6. Page 1, line 18.

Strike: "(a)"

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CONTINUED

AKS

Chairman.

CONTINUED

19.....

7. Page 1, line 19 through line 6 on page 2.

Following: "dwelling" on line 19

Strike: remainder of subsection (1) and subsection (2) in its entirety.

Insert: "is equipped with smoke detection equipment."

Renumber: subsequent subsection.

8. Page 2, line 7.

Following: "A"

Strike: "certificate"

Insert: "certification"

9. Page 2, line 8.

Following: "be"

Strike: "attached to"

Insert: "noted upon the realty transfer certificate that is submitted to the county clerk and recorder with"

10. Page 2, lines 10 and 11.

Following: "if" on line 10

Strike: remainder of line 10 through "certificate" on line 11

Insert: "the certification is not noted on the realty transfer certificate"

11. Page 2, following line 11.

Insert: "(3) A seller is not liable in a civil action for failure to comply with, or negligence in complying with, the requirements of this section. Evidence of such failure or negligence is not admissible in a civil action."

12. Page 3, following line 7.

Strike: Section 3 in its entirety.

Insert: "Section 3. Section 15-7-305, MCA, is amended to read:

"15-7-305. Certificate of county clerk and recorder. (1) The county clerk and recorder shall cause to be executed by the parties to the transaction or their agents or representatives a certificate declaring the consideration paid or to be paid for the real estate transferred.

(2) (a) No instrument or deed evidencing a transfer of real estate may be accepted for recordation until the certificate has been received by the county clerk and recorder. The certificate must contain the notation required by [section

1].

(b) The validity or effectiveness of an instrument or deed as between the parties to it shall not be affected by the failure to comply with the provisions in this part.

CONTINUED

AKX

JANUARY 30,

19 87

(3) The form of certificate shall be prescribed by the department of revenue, and the department shall provide an adequate supply of such forms to each county clerk and recorder in the state.

(4) The clerk and recorder shall prepare a like certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department."

13. Page 3, line 23 through line 1 one page 4.

Strike: Section 4 in its entirety.

Re-number: subsequent section.

AND AS AMENDED,

DO PASS

Kolstad
.....
SENATOR KOLSTAD, Chairman

STANDING COMMITTEE REPORT

JANUARY 30, 19 87

MR. PRESIDENT

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **SENATE BILL** No. **202**

FIRST reading copy (**WHITE**)
color

COMMODITIES INVESTMENTS REGULATED BY SECURITIES COMMISSIONER

Respectfully report as follows: That **SENATE BILL** No. **202**

DO PASS

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Kolstad
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SENATOR KOLSTAD,

Chairman.