

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By Senator Tom Hager, on March 3, 1989, at  
1:00 p.m., in Room 410, State Capitol

ROLL CALL

Members Present: Senators Tom Hager, Chairman; Tom  
Rasmussen, Vice-Chairman; J. D. Lynch, Matt Himsl, Bill  
Norman

Members Excused: Harry H. McLane, Bob Pipinich

Members Absent: None

Staff Present: Tom Gomez, Legislative Council  
Dorothy Quinn, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 225

Presentation and Opening Statement by Sponsor:

Representative Carolyn Squires, House District #58,  
stated that the Montana Dental Association asked her to  
carry this bill before people began losing the right to  
see the dentist of their choice in Montana. The  
original bill caused the insurance people some problems  
because it will not mesh with the two laws passed last  
session - the HMO law and the Preferred Provider  
Organization law. The amendments take care of the  
concerns and satisfy the dentists and the insurance  
providers.

List of Testifying Proponents and What Group they Represent:

Roger Tippy, Montana Dental Association  
Steve Brown, Blue Cross-Blue Shield  
Tom Hopgood, Health Insurance Association of America

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Roger Tippy, representing Montana Dental Association, stated that concern about closed panel or capitation of dental programs was initially addressed in a bill proposed by the Missoula dentists. He stated that the American Dental Association had been on record for several years as encouraging state dental societies in other states to respond to the problem of only having four or five dentists in a town which you were allowed to go to under a reimbursable insurance plan. The health insurance and Blue Cross people were involved in working out this bill. They indicate that the PPO law had optional provisions which are in essence non-optional, ie a non-preferred provider is entitled to participate in those plans. They also hope to enact into statute the right to enroll in a closed panel plan at any time so that it really isn't closed in that regard. He stated the amendment will insure that the present PPO preferences for preferred providers would be clearly expressed as preference of a preferred dentist over a non-preferred dentist, and they are willing to accept that amendment.

Steve Brown, representing Blue Cross-Blue Shield, stated that the amendment was agreed upon late in the House action, but too late to have it added. He provided a copy of the amendment to committee members and explained its intent (Exhibit #1). He stated that through this amendment they wished to make sure that the inducement to participate remains.

Tom Hopgood, representing the Health Insurance Association of America, reiterated the comments made earlier and would state that they are in full agreement with the bill and the amendment presented by Mr. Brown.

Questions From Committee Members: None

Closing by Sponsor: Representative Squires stated that she believes this bill has been fine-tuned and worked through a real process and those concerned are satisfied. She thinks it will be beneficial in the future, and she supports the amendment.

## DISPOSITION OF HOUSE BILL 225

Discussion: None

Amendments and Votes: Senator Hims1 moved that THE AMENDMENT BE ADOPTED. Senators in favor, 4; opposed,

0.

Recommendation and Vote: Senator Hims1 moved that HOUSE  
BILL 225 BE CONCURRED IN AS AMENDED. Senators in  
favor, 4; opposed, 0.

HEARING ON HOUSE BILL 308

Presentation and Opening Statement by Sponsor: Carolyn  
Squires, Representative from House District #58,  
advised that in the 1985 legislature it was provided  
that the state enabling legislation implement a program  
of independent living for persons with severe  
disabilities. Included in that legislation was a  
provision for state licensing of community homes for  
persons with these severe disabilities. The amendments  
being presented help to conform the language in the  
state legislation with the most recent federal  
amendments in the Rehabilitation Act. It also moves  
licensing authority and responsibility for community  
homes to the Department of Family Services, an action  
that was inadvertently omitted in the 1987 amendments  
to the state law. It also includes all the funding  
sources available within the independent living section  
of the Rehabilitation Act so that the state is given  
the opportunity to apply for those funds. The state  
legislation has no fiscal note attached since the  
Department is asking for no new dollars. She provided  
information regarding some of the services provided by  
this bill. Areas dramatically affected by this are  
Great Falls, Helena, Missoula and Billings. She urged  
a favorable recommendation from the committee.

List of Testifying Proponents and What Group they Represent:

Margaret Bullock, Administrator, Social and  
Rehabilitation Services  
Leslie Taylor, Department of Family Services

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Maggie Bullock requested that the committee favorably  
consider the amendments that are proposed. She  
believes this is necessary because the federal enabling  
legislation continues to change very rapidly. The last  
time the regulations were updated for the federal law  
was in 1987 after the adjournment of the 1987 session

of the legislature. She stated they are asking for these amendments in order to conform the language of the state bill to the language of the federal legislation. The proposed amendments do the confirmation as well as eliminate reference to only the one funding source so that there is an opportunity to apply for other dollars that become available. The other thing the bill does is transfer authority for the licensing to the Department of Family Services.

Leslie Taylor, representing the Department of Family Services, stated the Department supports HB 308. The transfer of licensing authority is really more of a "clean-up" since they currently license the homes, and did when they were part of SRS. Last session the functions of SRS were transferred to the Department of Family Services, and the licensing procedure was inadvertently left out. It will represent no change in the current practice. She asked for favorable consideration of the bill.

Questions From Committee Members:

Senator Himsl stated there could be some concern about "community homes", which he believed originally were considered to be family-oriented residences, and he noted they were now referred to as "facility licensed by Department of Family Services". He wondered if that changed the domicile requirement for community homes. Ms. Bullock responded by stating that terminology was deleted because of the licensing definition. She stated the homes are still family-oriented type homes, and must be that type under the licensing standards.

Senator Hager stated that about ten years ago a study was made over the interim on the difficulties that these people encounter in order to obtain a license, and it involved several different departments to get inspected and permitted. He asked if the changes here add to that problem. Ms. Bullock stated that should not happen by giving the licensing jurisdiction to the Family Services and should not create more bureaucratic paper work or add more agency scrutiny.

Senator Hager asked if she could safely say that when they get licensed the only ones they would have to see would be the fire marshal and the Department of Family Services. She stated she believes that is a safe assumption.

Senator Hager advised that there would possibly be an

amendment requested by the Governor's office. Tom Gomez stated that HB 243 relating to support of the independent living projects for persons with severe disabilities was heard in the Senate Labor Committee on March 5, 1989, and at that time an amendment was requested to coordinate that program with this program.

Maggie Bullock stated that her department would have no problem with such an amendment. She stated there are many different funding sources in the Rehab Act.

Senator Hager asked Tom Gomez to check with the Governor's office regarding the above-mentioned amendment.

Closing by Sponsor: Representative Squires stated she believes this is a vital service provided to the community. She stated she has been in the Missoula facilities and has seen the care provided, and is impressed and added they are really homelike situations. She also stated she has no problem with coordination, and urged a favorable recommendation.

#### DISPOSITION OF HOUSE BILL 308

Discussion: Senator Hager stated they would wait until Tom Gomez had a chance to confer with the Governor's office regarding the amendment before further action be taken.

Amendments and Votes: None

Recommendation and Vote: None

#### HEARING ON HOUSE BILL 654

Presentation and Opening Statement by Sponsor: Angela Russell, Representative from House District #99, stated she is presenting HB 654 which is an act to require certain liquor-licensed establishments to display a sign on the premises that warns of the effects of drinking alcohol during pregnancy. She stated a Public Health Nurse in her area tried to place a warning sign in some local bars and was prohibited from doing so because there was no state law which would allow that. That incident was the origin of this piece of legislation. She believes this bill is a public information effort about health hazards that may result from the consumption or abuse of alcoholic beverages. She listed adverse effects which are known collectively

as fetal alcohol syndrome. She provided statistics from a Public Health report Nov.-Dec., 1988, indicating the incidence of alcohol syndrome is 1.9 in every 1,000 live births. She concluded that there is no safe level of alcohol use during pregnancy, and believes increased public awareness may be an effective tool in discouraging women from using alcohol during pregnancy. She presented copies of letters she received showing support for her bill (Exhibit #2).

List of Testifying Proponents and What Group they Represent:

Karen Landers, M.D., Helena Pediatrician  
Nancy Griffin, Montana Women's Lobby

List of Testifying Opponents and What Group They Represent:

Robert A. Durkee, Montana Tavern Association

Testimony:

Karen Landers, M.D., stated she represented the Montana Council for Maternal and Child Health, which represents hundreds of health care professionals serving Montanans across the state. She read and presented her written testimony to the committee (Exhibit #3). Also attached to the exhibit is a picture of a child with fetal alcohol syndrome which illustrates anatomical defects that are signs of the disease.

Nancy Griffin stated she is speaking in support of HB 654. She feels fetal alcohol syndrome is very serious. Babies are being born with serious health risks over which they have no control. Their mothers may not be purposely jeopardizing their chances for a healthy life. Many are simply not aware of the risks. She believes the key to preventing this disease is education. This bill promotes education in appropriate places. She urged the committee to see fit to pass it.

Bob Durkee, Montana Tavern Association, stated he was providing a letter directed to the committee which in essence is his testimony. The Montana Tavern Association opposes HB 654. He read and presented the written testimony (Exhibit #4).

Questions From Committee Members:

Senator Norman asked who is excluded under Codes 16-4-301

through 16-4-303, as noted in the bill. Representative Russell stated those excluded would be holders of temporary permits where there is no permanent sale. He further questioned as to penalties or fines involved. Rep. Russell stated there are no punitive clauses because she sees it as an education piece.

Senator Himsl asked if grocery stores were included. Senator Russell stated they would be included under the requirement since they sell liquor on a regular basis. She stated the sign would be approximately 12" x 15" and only one sign would be required in each establishment.

Senator Hager asked if they considered making it permissive to post a sign rather than making it mandatory. Representative Russell said she did not consider it because she does not believe tavern owners would allow it unless it was law.

Closing by Sponsor: Representative Russell stated this was not her original idea. She discussed it with the Department of Health and they indicated that they had wanted to do it some years ago but they did not have the statutory authority. She stated there are about four states that have such an ordinance, and there are a number of cities, including New York City. She further advised that the Gallup organization developed a questionnaire to test the effectiveness of the signs, and the findings indicated a substantial increase in awareness. The purpose of the warning signs is to reduce birth defects through education. She stated this is a public education effort to prevent birth defects. She urged support of HB 654.

#### DISPOSITION OF HOUSE BILL 654

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

#### HEARING ON HOUSE BILL 684

Presentation and Opening Statement by Sponsor: Larry Grinde, Representative of House District #30, stated that in Montana one of our greatest resources is water. The bottled water industry is growing rapidly in this state. He believes it is important that this industry

be regulated. He stated this bill is not a new law, will not cost taxpayers additional money, and it benefits industry and protects consumers. It will include regulation of bottled water in the codes. The amendments put in by the House would make it consistent with the Federal Safe Drinking Water Act.

List of Testifying Proponents and What Group they Represent:

Cal Campbell, Registered Sanitarian, Department of Health and Environmental Sciences  
Charles Brooks, Montana Retail Association  
Charles Cerovski, President, Lewistown Coca-Cola, Big Spring Water Company, written testimony (Exhibit #5)

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Cal Campbell, stated he is a Registered Sanitarian, and was requested to appear as technical contact. He read and presented his written testimony to the committee (Exhibit #6).

Charles Brooks, Executive Vice-president, Montana Retail Association, stated his organization represents approximately 1,000 retail establishments. He stated a number of these sell bottled water. Their concern is that in the past the label did not always reflect the quality of the product within the container. He urged the committee to strengthen the law by passing HB 684.

Questions From Committee Members: Senator Norman referred to Section 9 and asked if there are penalties for non-compliance. Mr. Campbell informed there are penalties within the Food, Drug and Cosmetic Act, and these would be extended for this portion. He stated the penalties would not be increased over what is already in the law.

Senator Himsl asked if anyone choosing to sell water must have it tested to determine what kind of label would be permissible. Rep. Grinde stated that they just want the source of the water identified. They are not concerned as to what chemicals are contained in the water. Mr. Campbell added that bottled water comes under both the Food, Drug and Cosmetic Act and the Safe Drinking Water Act which already requires the chemical and bacterial analysis in addition to what is being required here.



Closing by Sponsor: Representative Grinde displayed two bottles of water being sold in Montana. One bottle labeled "Spring Drinking Water" was investigated and found that it was not spring water, and now they are distributing water taken from a well. Another sample did not indicate source, chemicals or other information. That is why this bill has been proposed - to protect the consumer, and Montana has the potential of being the center of a bottled water industry so now is the time to regulate it to some degree.

DISPOSITION OF HOUSE BILL 684

Discussion: Senator Himsl indicated that he does not have any problems with the bill as far as it goes, but he does not believe it goes very far since it deals only with the source of the water.

Amendments and Votes: None

Recommendation and Vote: Senator Rasmussen made the motion that HOUSE BILL 684 BE CONCURRED IN. Senators in favor, 5; opposed, 0. MOTION CARRIED UNANIMOUSLY.

Senator Rasmussen will carry.

EXECUTIVE ACTION ON HOUSE BILL 654

Chairman Hager called for action on HB 654: Senator Hager briefly described the bill as one requiring certain liquor licensees to display a sign on the premises warning of the effects of drinking alcohol during pregnancy.

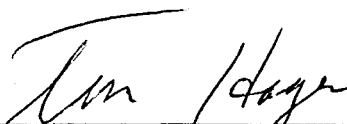
Discussion: Senator Lynch stated that doctors advise pregnant women what not to do, and he feels it is unnecessary legislation.

Recommendation and Vote: Senator Rasmussen made the motion that HOUSE BILL 654 BE CONCURRED IN. Senators in favor, 2; opposed 3. MOTION FAILED.

Senator Lynch made a substitute motion to TABLE HOUSE BILL 654. Senators in favor, 4; opposed, 1 (Rasmussen). MOTION TO TABLE PASSED.

ADJOURNMENT

Adjournment At: 2:20 p.m.



---

SENATOR TOM HAGER, Chairman

TH/dq

senmindq.303

Proposed Amendment  
House Bill 225  
3rd Reading Copy

SENATE HEALTH & WELFARE  
EXHIBIT NO. #1  
DATE 3/3/89  
BILL NO. 225

1. Page 3, line 15:

Following: "their choice"

Strike: ~~the~~ the remaining language  
on line 15 through line 17

Insert: "subject to the same terms  
and conditions imposed under  
subsection (1) of this section."

#1  
3/3/89  
HB 225

Amendments to House Bill No. 225  
Third Reading Copy

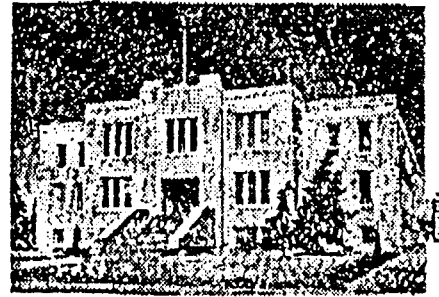
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher  
March 3, 1989

1. Page 3, lines 15 through 17.  
Following: "choice" on line 15  
Strike: remainder of line 15 through "(1)(a)"  
Insert: "subject to the same terms and conditions imposed under subsection (1)"

# BIG HORN COUNTY

DRAWER H



HARDIN, MONTANA 59034

60

DATE: 2-15-89  
 TO: Angela Russel, Representative Dist #99  
 FROM: Big Horn County  
 RE: FAX TRANSMISSION

SENATE HEALTH & WELFARE  
 EXHIBIT NO. #2  
 DATE 3/3/89  
 BILL NO. HB#654

Number of pages in transmission 8  
 (including cover sheet)

If this FAX transmission is not being received properly or is not readable, please call (406) 665-1506.

The FAX number for Big Horn County is (406) 665-1608. The county's fax machine is an Adler-Royal FX915, Group 3.

Thank you.

SPECIAL INSTRUCTIONS:  
Reference HB 654.

February 15, 1989

Human Services Committee  
Montana House of Representatives  
Capital Station  
Helena, Montana 59620-0144

Dear Honorable Committee Members:

As a mother and registered nurse, I am strongly in favor of the passage of H.B. 654 requiring mandatory warning signs to be displayed on premises serving alcoholic beverages.

I have seen babies born to mothers who have consumed large amounts of alcohol, born with numerous physical problems who later display varying degrees of mental retardation. I have seen several of these children end up in foster placement because either mom continues to drink or she cannot cope with a disabled child.

Fetal Alcohol Syndrome is a leading cause of birth defects and the only cause that is preventable if mothers-to-be do not consume alcohol. I feel that efforts to raise public awareness to this problem should be strongly supported. Mandatory signs on premises serving alcohol will serve as a reminder for mothers-to-be not to drink, to fathers-to-be to encourage and support mothers in their abstinence, and for those selling the alcoholic beverages to an obviously pregnant woman that they may be harming an unborn child.

As mother of two healthy children I strongly urge passage of H.B. 654 so that more children have the opportunity to be born healthy and happy.

Sincerely,

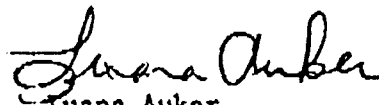
*Alberta Schroeder R.N.*

Alberta Schroeder,  
IHS Public Health Nurse

February 13, 1989

To Whom It May Concern:

I am writing to voice my support for the bill (House Bill 654) before you advocating warning signs stating alcohol consumption during pregnancy is harmful to the baby. I strongly believe that it is very appropriate to place these warning signs in any retail area where alcohol can be purchased. No amount of alcohol intake has been proven to be safe for the unborn child. This proposed bill would make a great contribution to increasing the community awareness concerning the harmful effects of alcohol during pregnancy. Fetal Alcohol Syndrome is a primary cause of mental retardation. The permanent health problems and disabilities known as Fetal Alcohol Effects/Syndromes can be completely prevented by not drinking any alcohol during pregnancy. I believe it is our duty to increase the awareness of the Montana public regarding the tragic results of alcohol intake during pregnancy, and stop this entirely preventable health problem of Fetal Alcohol Syndrome affecting the unborn children of Montana.



Luana Auker  
621 N. Cheyenne  
Hardin, Mt 59034

February 15, 1989

To Whom It May Concern:

This is to document my support for the Law before you advocate warning signs of alcohol intake during pregnancy is harmful to the fetus. I think it is appropriate that these signs be placed in any retail area where alcohol can be purchased. This Law would make a great contribution to the efforts of educating the public - all ages, races, and sexes - on the harmful effects of alcohol during pregnancy. Fetal Alcohol Syndrome is the primary cause of mental retardation and is entirely preventable. I believe it is our duty to increase the awareness of the Montana public regarding alcohol and pregnancy.

Linda Pretty Weasel, IHS DON  
PO Box 591  
Crow Agency, Montana 59022

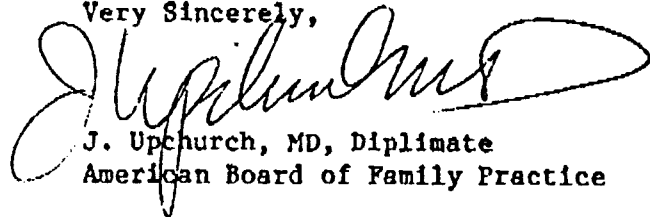


February 15, 1989

To Whom It May Concern:

As a Physician who daily sees the damage brought on by alcohol abuse, I must voice my support for House Bill 654, which places warning signs concerning alcohol consumption during pregnancy in those establishments that sell alcohol. It is certainly a sad event to see someone destroy their life and health with alcohol, it is much more so when it occurs to the unborn child.

Very Sincerely,

A handwritten signature in black ink, appearing to read "J. Upchurch", written in a cursive style. The signature is positioned above the typed name and title.

J. Upchurch, MD, Diplmate  
American Board of Family Practice

February 13, 1989

Human Services Committee  
Legislature, State of Montana

Fetal Alcohol Syndrome (FAS) is recognized as one of the three leading causes of birth defects and most important is the only one of the three which is preventable. The National Institute on Alcohol Abuse and Alcoholism estimates one in 750 live births suffers from FAS. Many more births show individual alcohol-related birth defects, or Fetal Alcohol Effects (FAE). Alcohol consumption during pregnancy may be a significant factor in minimal brain dysfunction and hyperactivity from which 5-10% of the school age population suffers. (1978 Third Special Report to U.S. Congress on Alcohol and Health.)

Because of our deep concern at the incredible scope of this needless tragedy, our Community Health Department has placed strong emphasis on education and public awareness of FAS and FAE. In January 1982, twelve health professionals and interested community members were officially trained to be FAS counsellors and trainers. Each trainer has conducted three four FAS awareness classes with church groups, teen groups, at schools, and health fairs within seven different communities of Big Horn County per year since 1982. FAS and FAE pamphlets and bumper stickers have been distributed widely throughout the county. FAS messages have been flashed on the Bank Marquis during National Fetal Alcohol Awareness Week which was established by President Reagan in 1984.

Despite strong efforts at FAS education, public awareness of FAS and FAE remain low as evidenced by pre-test questionnaires given before FAS Community Classes. Due to the pervasive and permanent nature of alcohol related birth defects a more comprehensive approach to public awareness is warranted.

Warning signs at the point of alcohol purchase would reach many people at minimal cost. The purpose of the sign is to reduce birth defects through education. Those most needing to know the connection of alcohol and birth defects, that is, those persons purchasing and consuming alcohol will be most likely to see the sign. New York City passed a warning sign law in 1983, Philadelphia in 1984, and Columbus, Ohio 1985.

As FAS Coordinator and as a concerned citizen for the future of this country, I fully endorse Representative Angela Russell proposed legislation of House Bill 654.

*Molly Malone*  
Molly Malone  
IHS Public Health Nurse

February 13, 1989

Human Services Committee  
Legislature, State of Montana  
State Capital  
Helena, Montana

To the august body of State Legislators:

My name is Ada M. White, and I am an enrolled member of the Crow Tribe of Indians, residing in Big Horn County, Crow Agency, Montana.

Since 1969, to the present, I have been actively involved in the area of Tribal-Indian health. I have witnessed the development of health issue awareness, stemming from local concerns to having National impact. It is from this perspective that I approach you.

Your support is requested on the passage of House Bill 654 in INITIATIVE, which mandates the public posting of information in Bars and Taverns, alerting the public to the harmful effects of alcohol on the fetal development of pregnant women. This action could be interpreted as infringing on the freedom of choice of individual's to either drink or not drink, however, past practice seems to indicate the need for additional public pressure to influence needed changes (i.e., Seat Belt Law, Driving While Intoxicated penalties).

According to John Bradshaw, an authority of Family Life: "The first component of dysfunctional families is that they are part of a multigenerational process. The dysfunctional individual who marry other dysfunctional individuals have come from dysfunctional families. So the circle tends to be unbroken. Dysfunctional families create dysfunctional individuals who marry other dysfunctional individuals who create new dysfunctional families. Left to our own devices, it is very difficult to get out of the multigenerational disease".

Recently, Indian Communities have recognized that health problems related to communicable diseases have declined, and those related to lifestyle have increased dramatically (i.e., Alcoholism, Substance Abuse, Mental Health Problems). The following data clearly supports lifestyle induced problems;

1. In a 1978 Congressional Report on Alcohol and Health, women between the ages of 20-24 years of age have the highest rate of heavy drinking.



SENATE STAFFING COMMITTEE REPORT

March 1, 1954

RE: SENATE STAFFING

The Senate Staffing Committee on Public Health, Education, and Welfare has had under consideration HR 225 (third reading copy - blue), favorably reported that HR 225 be amended and as so amended be concurred in.

Sponsored by Senator (Howe)

1. Page 3, lines 15 through 17.

Following: "choice" on line 15

Strike remainder of line 15 through "(1)(a)" on line 17

Insert: "subject to the same terms and conditions imposed under subsection (1)"

AND AS AMENDED BE CONCURRED IN

Signed:

Thomas C. Hager, Chairman

J.C. 3/1/54  
3/1/54  
4/1/54

SENATE STANDING COMMITTEE REPORT

March 11, 1939


RE: THE BUDGET.

The Joint Committee on Public Health, Education, and Safety, having had under consideration H. R. 604 (third reading copy - blue), respectfully report that H. R. 604 be concurred in.

Sponsor: Grinde (Rasmussen)

BE CONCURRED IN

Signed:

  
Thomas O. Baker, Chairman

41  
313/89  
4: p.m.

Letter of Human Services Committee  
Page Two

2. The California Indian Maternal-Child Health plan of 1981 states that Indian Adolescent pregnancy is rapidly increasing. Between 1965 and 1975 the birth rate was up 94.7% from 34.1% for 15-19 years old. Birth to Indian Mothers under 19 years of age have grown from 19.8% of total births in 1970 to 24.5% in 1977.
3. Alcohol may be a significant factor in minimal brain dysfunction and hyperactivity from which 5-10% of the school age population suffers. (1978 Congressional Report to the U.S. Congress on Alcohol and Health).

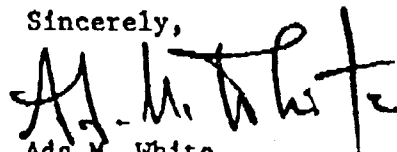
The cost it would take to publically post the information of the dangers of pregnant women drinking alcohol would be minimal, when one considers the high cost of health care. In 1987, the per capita medical expenditures for Indians was \$797, and for the U.S. general population it was \$1,647.00. This disparity in resource availability could conceivably be reflective of Rural America.

The issue of alcoholism, the effects of alcoholism is a problem shared by all. The cost of treating, the effects of alcoholism is borne by all.

In this case, Fetal Alcohol Syndrome/Fetal alcohol effects and the toll it takes on the newborns and children is preventable.

Any action we take as concerned citizens to promulgate health promotion will result in a healthier lifestyle for all.

Sincerely,



Ada M. White  
P.O. Box 201  
Crow Agency, MT 59022

TESTIMONY FOR THE SENATE PUBLIC HEALTH, WELFARE, AND SAFETY  
COMMITTEE

Support HB 654 Requiring Certain Liquor Licensees Display  
Warning of Effects of Alcohol on Pregnancy

Name: Karen Landers MD, Pediatrician from Helena

Representing: Montana Council for Maternal and Child Health

The Montana Council for Maternal and Child Health represents hundreds of health care professionals serving Montanans across the state. Because their primary goal is the health and well-being of mothers and children, I speak in support of HB 654 which will require certain liquor licensees to display a sign warning of the effects of alcohol ingestion on pregnancy.

Drinking alcohol during pregnancy is associated with a well-recognized syndrome in infants known as fetal alcohol syndrome. This condition not only has the particular facial characteristics you see depicted here, but has several features that are less visible and become apparent later. Among these are poor growth, heart defects, hyperactivity, and mental retardation. These problems occur in a dose related manner - the more alcohol consumed, the greater the likelihood that the full-blown fetal alcohol syndrome will occur. However, there is evidence that that as little as two drinks a day may result in recognizable abnormalities in a significant percentage of newborns.<sup>1</sup> The safest amount of alcohol to drink during pregnancy is none at all.

The child born with fetal alcohol syndrome is a tragedy that is preventable through public awareness and education. Attempts to increase awareness of the effects of alcohol on the developing



fetus have been initiated. We support continuing these efforts by placing warning signs in places where alcohol is most likely to be consumed. A pregnant woman never drinks alone. I urge your do pass recommendation on HB 654.

References

<sup>1</sup> Rudolph, Abraham, Pediatrics 17th Edition, 1977, p. 394.

## Characteristic Anatomical Defects that are Signs of the Fetal Alcohol Syndrome



Small head  
circumference

Low nasal bridge

Epicanthic  
folds

Short palpebral fissures,  
obscure the canthus, or  
inner corner of the eye,  
a normal feature in  
certain species of the  
Mongolian race

Short nose  
Small midface

Indistinct philtrum,  
an underdeveloped  
groove in the center  
of the upper lip  
between the nose  
and the lip edge

Thin reddish  
upper lip

PHOTO COURTESY NEJM

*Epicanthus is a characteristic of the eye where a vertical fold of skin extends from the root of the nose to the inner termination of the eyebrow, sometimes covering the inner canthus. Its presence is normal in certain of the Mongolian races but a telling deformity in FAS.*



MONTANA



## Tavern Association

Affiliated and Associated with the NLBA

PROFESSIONAL PLAZA - SUITE AB-2  
900 N. MONTANA AVENUE - P.O. BOX 851  
HELENA, MT 59624 / PHONE 406-442-5040

March 3, 1989

TO: Senator Tom Hager, Chairman, and Members of the Senate  
Public Health, Welfare & Safety Committee.

RE: HB654 - Hearing on March 3, 1989.

The Montana Tavern Association opposes HB654.

There are ways that messages of this nature can reach the people to whom they are directed, without cost or burdensome monitoring and enforcement. It would seem far more reasonable to utilize the available free access to information that is provided by Public Service Announcements through the media--the press, broadcast radio and TV. These PSAs, we believe, are considerably more effective than hanging up a sign that few, if any, will read; or, if they do, cause them to alter their conduct. Education is the answer, not signs.

The bill implies that if a pregnant woman drinks alcoholic beverages at a picnic, convention, fair, civic or community enterprise, a sporting event or art exhibition that is issued a special permit, there is no danger to her unborn child. But, if she consumes the same beverages in a tavern or buys them from a licensed off-premise outlet, there is. That rationale is extremely difficult to accept.

Finally, the Federal Alcoholic Beverage Labeling Act of 1988, passed on November 18, 1988, requires all alcohol beverages bottled after November 18, 1989, to bear the statement:

"GOVERNMENT WARNING: (See copy of law attached)"

Therefore, the warning poster proposed by HB654 is unnecessary and we urge this Committee to reject the bill.

STEVE WILKEN, President

Testimony presented on behalf of MTA by Robert A. Durkee, registered lobbyist.

in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

“(A) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

“(B) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

“(C) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.”.

(2) **CONFORMING AMENDMENT.**—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following:

“4013. Support of United States prisoners in non-Federal institutions.”.

(e) **PAY OF DIRECTOR OF SERVICE.**—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following: “Director, United States Marshals Service.”.

#### SEC. 7609. DATA COLLECTION AND REPORTING.

28 USC 534 note.

(a) **FAMILY VIOLENCE REPORTING.**—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicate—

(1) the age of the victim; and

(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

(b) **NATIONAL CRIME SURVEY.**—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated in fiscal years 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.

## TITLE VIII—FEDERAL ALCOHOL ADMINISTRATION

### SEC. 8001. FEDERAL ALCOHOL ADMINISTRATION.

(a) The Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) is amended—

(1) by inserting immediately after the enacting clause the following centered heading:

“TITLE I—FEDERAL ALCOHOL ADMINISTRATION”;

(2) by redesignating the first section and section 2 through 17 as sections 101 through 117, respectively; and

(3) by adding at the end the following new title:

27 USC 201-211.

Alcoholic  
Beverage  
Labeling Act of  
1988.  
27 USC 201 note.

**"TITLE II—ALCOHOLIC BEVERAGE LABELING**

**"SHORT TITLE**

**"SEC. 201. This title may be cited as the "Alcoholic Beverage Labeling Act of 1988".**

**"DECLARATION OF POLICY AND PURPOSE**

Public  
information.  
27 USC 213.

**"SEC. 202. The Congress finds that the American public should be informed about the health hazards that may result from the consumption or abuse of alcoholic beverages, and has determined that it would be beneficial to provide a clear, nonconfusing reminder of such hazards, and that there is a need for national uniformity in such reminders in order to avoid the promulgation of incorrect or misleading information and to minimize burdens on interstate commerce. The Congress finds that requiring such reminders on all containers of alcoholic beverages is appropriate and necessary in view of the substantial role of the Federal Government in promoting the health and safety of the Nation's population. It is therefore the policy of the Congress, and the purpose of this title, to exercise the full reach of the Federal Government's constitutional powers in order to establish a comprehensive Federal program, in connection with the manufacture and sale of alcoholic beverages in or affecting interstate commerce, to deal with the provision of warning or other information with respect to any relationship between the consumption or abuse of alcoholic beverages and health, so that—**

**"(1) the public may be adequately reminded about any health hazards that may be associated with the consumption or abuse of alcoholic beverages through a nationally uniform, nonconfusing warning notice on each container of such beverages; and**

**"(2) commerce and the national economy may be—**

**"(A) protected to the maximum extent consistent with this declared policy,**

**"(B) not impeded by diverse, nonuniform, and confusing requirements for warnings or other information on alcoholic beverage containers with respect to any relationship between the consumption or abuse of alcoholic beverages and health, and**

**"(C) protected from the adverse effects that would result from a noncomprehensive program covering alcoholic beverage containers sold in interstate commerce, but not alcoholic beverage containers manufactured and sold within a single State.**

**"DEFINITIONS**

27 USC 214.

**"SEC. 203. As used in this title—**

**"(1) The term 'alcoholic beverage' includes any beverage in liquid form which contains not less than one-half of one percent of alcohol by volume and is intended for human consumption.**

**"(2) The term 'bottle' means to fill a container with an alcoholic beverage and to seal such container.**

**"(3) The term 'bottler' means a person who bottles an alcoholic beverage.**

**"(4) The term 'commerce' means—**

“(A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof;

“(B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or

“(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

“(5) The term ‘container’ means the innermost sealed container irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.

“(6) The term ‘health’ includes, but is not limited to, the prevention of accidents.

“(7) The term ‘person’ means an individual, partnership, joint stock company, business trust, association, corporation, or any other business or legal entity, including a receiver, trustee, or liquidating agent, and also includes any State, any State agency, or any officer or employee thereof.

“(8) The term ‘sale’ and ‘distribution’ include sampling or any other distribution not for sale.

“(9) The term ‘Secretary’ means the Secretary of the Treasury.

“(10) The term ‘State’ includes any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

“(11) The term ‘State law’ includes State statutes, regulations, and principles and rules having the force of law.

“(12) The term ‘United States’, when used in geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, and Johnston Island.

#### “LABELING REQUIREMENT; CONSPICUOUS STATEMENT

“SEC. 204. (a) On and after the expiration of the 12-month period following the date of enactment of this title, it shall be unlawful for any person to manufacture, import, or bottle for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the following statement:

“GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.’

"(b) The statement required by subsection (a) of this section shall be located in a conspicuous and prominent place on the container of such beverage, as determined by the Secretary, shall be in type of a size determined by the Secretary, and shall appear on a contrasting background. The Secretary shall make such determinations within 90 days after the date of enactment of this title.

"(c) Subsection (a) of this section shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States: *Provided*, That this exemption shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the Armed Forces of the United States, including those located outside the United States.

"(d) The Secretary shall—

"(1) have the power to—

"(A) ensure the enforcement of the provisions of this title, and

"(B) issue regulations to carry out this title, and

"(2) consult and coordinate the health awareness efforts of the labeling requirements of this title with the Surgeon General of the United States.

Regulations.

#### "PREEMPTION

27 USC 216.

"SEC. 205. No statement relating to alcoholic beverages and health, other than the statement required by section 204 of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container.

#### "REPORT TO CONGRESS

27 USC 217.

"SEC. 206. If, after appropriate investigation and consultation with the Surgeon General carried out after the expiration of the 24-month period following the date of enactment of this title, the Secretary finds that available scientific information would justify a change in, addition to, or deletion of the statement, or any part thereof, set forth in section 204(a) of this title, the Secretary shall promptly report such information to the Congress together with specific recommendations for such amendments to this title as the Secretary determines to be appropriate and in the public interest.

#### "CIVIL PENALTIES

27 USC 218.

"SEC. 207. Any person who violates the provisions of this title shall be subject to a civil penalty of not more than \$10,000, and each day shall constitute a separate offense.

#### "INJUNCTION PROCEEDINGS; COMPROMISE OF LIABILITY

27 USC 219.

"SEC. 208. (a) The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of this title upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

Lewistown Coca-Cola Bottling Co.  
204 First Avenue N./406-538-3991  
Lewistown, Montana 59457



SENATE HEALTH & WELFARE  
EXHIBIT NO. # 5  
DATE 3/3/89  
BILL NO. # 684

Senate Committee  
on Public Health

March 3, 1989

Helena, MT

Re: HB 684 - by Grinde

A bill to amend the Food, Drug and Cosmetic Act to include bottled water.

Senate Hearing, Room 410 at 1:00 P.M. on 3/03/89

I am Charles Cerovski, President of Lewistown Coca-Cola Bottling Co. and Big Spring Water Co. I favor the passage of HB 684 because it gives the Montana Department of Health and Environmental Sciences the necessary power to regulate and control the labeling of bottled water. In many cases a consumer may purchase what is labeled "Distilled Water" for his contact lenses, humidifier or for his oxygen machine and it turns out to be merely water run through a filter, the results could be disasterous. The same is true of water that is labeled as coming from a prestine spring when in fact it is just tap water run through a carbon filter to take out the chlorine. In this case the consumer is duped into buying something that is not what he thought he was buying simply because of a misleading label.

Again, I favor the passage of HB 684.

*Charles Cerovski*  
Charles Cerovski

President

Lewistown Coca-Cola, Big Spring Water Co.



I have been in contact with the Water Quality Bureau and the amendments already made make HB 684 definitions consistent with our Safe Drinking Water Act. We won't be doing anything different than we are now but it will be spelled out in the law.

For an example, we have had bottled water that was labeled spring water and it came from a large city system. The large city gets its water from wells. Even though water was labeled spring water it didn't come from anywhere near a spring. We had to depend on FDA to take action since we didn't have specific terminology in our law.

It will make the administration of requirements and labeling easier for bottled water.

Are there any questions?

Cal Campbell, R.S.  
Sanitarian Consultant  
Food and Consumer Safety Bureau  
Department of Health and  
Environmental Sciences  
Phone: 444-2408

CC/war-28xt

TESTIMONY ON BOTTLED WATER (HB 684)

Chairman Tom Hager and Committee members, I am Cal Campbell, Registered Sanitarian, employed for 19 years in the Food and Consumer Safety Bureau in the Department of Health and Environmental Sciences as a Consultant Sanitarian. Mr. Grinde and Mr. Cerovski requested my presence here as a technical contact.

Bottled water laws, rules and requirements are quite complex with differing requirements in different states and on the national level in EPA's Safe Drinking Water Act and the Food and Drug Administration's Food, Drug and Cosmetic Act and Code of Federal Regulations.

In Montana both the Water Quality Bureau's Safe Drinking Water Act and the Food and Consumer Safety Bureau's Food Processing Rules and Food, Drug and Cosmetic Act are involved.

The proposed legislation in HB 684 will clarify the bottled water definitions so that our requirements are consistent to other states and federal standards and assist in interstate trade. Trade barriers won't be established because there hasn't been a clear definitions of what is being bottled, labeled and sold.

The definitions are taken from a National Food and Drug Association's model regulations so the terms and labels are consistent with other states. Some states adopt the whole act but this bill would amend Montana's Food, Drug and Cosmetic Act and eliminate another additional law. There shouldn't be any extra costs as the label reviews will be done routinely.

COMMITTEE ON

Public Health

DATE

3/3/89

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bess Durkee	MTA Helena	654		X
Karen Landerz MD	Montana Central govt Maternal and Child Health	654	✓	
Cal Campbell	S Dept of Health RES	684		
Tom Hopgood	Health Ins. Assoc of Am	225	✓	
Ann K. R. Brooks	NAT Ret. / Assoc	684	✓	
Nancy Duppin	MT Women's Lobby	684	✓	
Jessie Taylor	Dept of Family Serv	308		
Roger Tippy	MT Dental Assoc	225		X
Margaret Bullock	SKS	308	✓	

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/3/89 Bill No. 225 Time 1:30

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH		
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE		
SEN. PIPINICH		

Dorothy Quinn  
Secretary

Sen. Tom Hager  
Chairman

Motion: Senator Himsl to adopt  
amendment  
favor 4-0 opposed

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/3/89 Bill No. 225 Time \_\_\_\_\_

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH		
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE		
SEN. PIPINICH		

Dorothy Quinn  
Secretary

Sen. Tom Hager  
Chairman

Motion: Senator Himsl moved that  
HB 225 be concurred in  
as amended.  
Senator in favor 4, opposed 0.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/3/89 Bill No. 684 Time 2:15

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE		<i>excused</i>
SEN. PIPINICH		<i>excused</i>

Dorothy Quinn  
Secretary

Sen. Tom Hager  
Chairman

Motion: Rasmussen<sup>Do</sup> concur in  
HB 684  
favor 5 - 0 opposed

*Carried by  
Rasmussen*

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

*Tabbed*

Date 3/3/89 Bill No. 654 Time \_\_\_\_\_

NAME	YES	NO
SEN. TOM HAGER	<del>*</del>	X
SEN. TOM RASMUSSEN	X	
SEN. LYNCH		X
SEN. HIMSL	X	
SEN. NORMAN		X
SEN. McLANE		
SEN. PIPINICH		

Dorothy Quinn  
Secretary

Sen. Tom Hager *H.R. 654*  
Chairman

Motion: Rasmussen that this bill be  
concurrent  
favor 2 in  
opposed - 3  
Motion

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/3/89 Bill No. 654 Time 2:18

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN		X
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE		
SEN. PIPINICH		

Dorothy Quinn  
Secretary

Sen. Tom Hager  
Chairman

Motion: Substitute Motion to Table  
this bill.  
In favor 4 - 0 to TABLE  
opposed