

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT**

**Call to Order:** By **CHAIRMAN STEVE BENEDICT**, on January 13, 1993,  
at 9:00 A.M.

**ROLL CALL**

**Members Present:**

Rep. Steve Benedict, Chair (R)  
Rep. Sonny Hanson, Vice Chair (R)  
Rep. Bob Bachini (D)  
Rep. Joe Barnett (R)  
Rep. Ray Brandewie (R)  
Rep. Vicki Cocchiarella (D)  
Rep. Fritz Daily (D)  
Rep. Tim Dowell (D)  
Rep. Alvin Ellis (R)  
Rep. Stella Jean Hansen (D)  
Rep. Jack Herron (R)  
Rep. Dick Knox (R)  
Rep. Don Larson (D)  
Rep. Norm Mills (R)  
Rep. Bob Pavlovich (D)  
Rep. Bruce Simon (R)  
Rep. Carley Tuss (R)  
Rep. Doug Wagner (R)

**Members Excused:** All Present

**Members Absent:** None

**Staff Present:** Paul Verdon, Legislative Council  
Claudia Johnson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: cont. of hearing on HB 29  
Executive Action: HB 29

**HEARING ON HB 29**

**Opening Statement by Sponsor:**

**REP. VIVIAN BROOKE**, House District 20, continued with HB 29. She  
distributed 2 exhibits, Terry Karson from MAGDA, and a synopsis  
of HB 29. **EXHIBITS 1 and 2**

Proponents' Testimony:

Gloria Hermanson said the advocacy feels the overall intent of the bill is appropriate and with the amendments attached they support HB 29. **EXHIBIT 12 for amendments. Ms. Hermanson** distributed two exhibits, Monte Dolack Graphics from Missoula, and William Frazier, Jr. from Livingston. **EXHIBITS 3 and 4**

Laura J. Millin, Director Missoula Museum of the Arts, said the fine arts credibility and respectability in the art community is nationwide. She said it is very important that the constituents understand that Montana must uphold the same standards that are held nationwide and internationally. She said the courts are clogged back east with lawsuits from consumers suing art dealers for not properly representing the work of art. She urged the committee's support for HB 29.

Opponents' Testimony:

Robert F. Morgan, Artist, Clancy, reiterated his comments from the hearing of January 7, 1993. He distributed written testimony. **EXHIBIT 5**

Russ Ritter, representing The Dunlap Gallery of Kalispell, stated his opposition of HB 29.

Benita Wheeler, Artist, Western Heritage Artists, Great Falls, said HB 29 will place a burden on the artists to prove that the disclosure was present at the time of sale. She said if there is protection for the artist in this bill she could not see it, and urged the committee to not pass this piece of legislation.

Rep. Ray Brandewie, House District 49, Bigfork, said he opposes HB 29. Bigfork is one of the fastest growing communities in Montana and the people moving in have money and collect art. He read letters of testimony from artists Bud Helbig, Fred Fellows, Deborah Copenhaver Fellows and Gary Riecke. **EXHIBITS 6, 7, 8 and 9**

David Maloney, Artist, Great Falls, wanted to go on record in opposition to HB 29 and distributed written testimony. He read a letter from the Executive Director, Loren E. Render of the C.M. Russell Museum. **EXHIBITS 10 and 11**

Questions From Committee Members and Responses:

Rep. Pavlovich asked Dennis Kern what effect would this have on printing companies like Art Craft. Mr. Kern said a printing house like Art Craft who contracts with an artist to print a certain number of impressions has a responsibility for the job only. A private printer who specializes in fine art printing has to keep documentation in their shop and disclose every edition or print. He said this bill does not address the printing concerns of Art Craft, but does address the publisher. If a publisher is

releasing a limited edition set of reproductions (or in some cases Art Craft would produce the original) would then be offset by the sale. The publisher is responsible for disclosure and makes sure the impressions are accurate in an inventory setup.

**Rep. Dowell** asked **Mr. Frazier** what kinds of abuse is there by artist and how can this bill prevent it from happening. **Mr. Frazier** said in his practice he represents publishers, artists and dealers, etc. A typical abuse that occurs when an artist or sculptor produces a limited edition and it is successful, i.e. if 1000 prints are sold, they in turn will print an extra number of additional prints called decorator or executive prints and place them on the market which will render the first limited edition essentially worthless. This bill addresses that issue by giving the buyer information of disclosure ahead of time as to what they are actually receiving. The definition of this bill will allow the consumer to know if they are receiving a limited edition or not.

**Rep. Larson** asked if there is any recourse now that a consumer can take if there is more than one edition. **Mr. Frazier** said that legal recourse is next to nothing. A person would have to develop a breach of contract or breach of warranty which is not used in Montana at this time or claim fraud of misrepresentation. **Mr. Frazier** said as the law presently exists, it is next to impossible to file a breach of contract or claim misrepresentation.

**Rep. Larson** asked **Robert Morgan** if he has attempted to develop any amendments that would be acceptable by the proponents and opponents since the bill was heard on January 7. **Mr. Morgan** replied no. He said the bill is aimed more at the print business, but with the committee talking about bronzes and sculptors also, the provisions are not there to cover the various forms of art of which there are many, and therefore makes this bill inadequate.

**Rep. Brandewie** asked **Bill Frazier** what is happening to the art that is being sold second time around. **Mr. Frazier** said art works are sold as they appear to be. **Rep. Brandewie** asked how widespread is the abuse in Montana. **Mr. Frazier** said he was not aware of it until 4 or 5 years ago and there has been an increase in the abuse in the last 2 years, not only in Montana, but across the United States.

**Rep. Stella Jean Hansen** asked if greeting cards were affected under this bill. **Mr. Frazier** said this bill applies only to limited editions.

**Rep. Simon** asked if there was one consumer in the committee room that had been hurt by false advertising of limited editions. **Leslie Millar, artist from Missoula** said her mother purchased a print signed and numbered by the artist in the southwest, she

discovered there were more like the one she had, but with a different name.

Rep. Cocchiarella asked the reason for the \$50 figure in the amendment distributed by Rep. Brooke. Geoffrey Sutton, Missoula County Board of Trustees for Museums said the figure is to avoid the smaller print items that are represented as posters. EXHIBIT 12

Chairman Benedict asked who sets the price of the prints, the gallery, artists...is it negotiated? Mr. Frazier said it is negotiated.

Closing by Sponsor:

Rep. Brooke closed stating that HB 29 outlines the recourse to be taken when art is misrepresented. There are clear definitions in this bill to protect the consumer. She urged the committee to pass HB 29 as amended to protect the constituents and give Montana a healthier environment.

EXECUTIVE ACTION ON HB 29

Motion: REP. STELLA JEAN HANSEN MOVED HB 29 DO PASS.

Discussion: Rep. Barnett said he is against this bill. He felt that what the artists are seeking in this bill is currently and readily available to them.

Rep. Brandewie spoke against HB 29. He said if the galleries want to protect the credibility of the art world in Montana they should get together with all of the people and then come back to Legislature with a bill that everyone can support.

Motion/Vote: REP. BRANDEWIE MADE A SUBSTITUTE MOTION THAT HB 29 DO NOT PASS.

Discussion: Rep. Daily asked that Rep. Brandewie withdraw his motion so the amendments could be addressed with the do pass motion. Rep. Brandewie withdrew his motion.

Motion/Vote: REP. COCCHIARELLA moved to adopt Amendments. SEE EXHIBIT 12. Rep. Dowell called the question. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. DAILY MOVED HB 29 BE TABLED. Roll call vote was taken. Motion CARRIED 15 - 3 with Rep. Cocchiarella, Stella Jean Hansen and Larson voting no. EXHIBIT 13

Vote: HB 29 BE TABLED AS AMENDED.

ADJOURNMENT

Adjournment: 10:40 A.M.



STEVE BENEDICT, Chair



CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES  
53RD LEGISLATURE - 1993  
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

1-13-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

wp.rollcall.man

## Fax Transmittal Memo

To VIVIAN BROOK  
Company MONTANA HOUSE  
Location HELENA  
Fax # 406 444 3036

Telephone #

Comments

7672

No. of Pages

From

Company

Location

Fax #

Original  
Disposition:

Today's Date

EXHIBIT

DATE

Time

1-13-93

Dept. Charge

Telephone #

☐ Destroy☐ Return☐ Call for pickupMONTANA ART GALLERY DIRECTORS ASSOCIATION

2112 First Avenue North, Great Falls, Montana 59401 (406) 761-1797

January 12, 1993

Vivian Brooks  
Representative  
Montana House of Representatives  
Helena, Montana

Dear Vivian,

I am faxing this letter in support of the Disclosure Bill you are putting forth to the Business and Economic Committee. I will not be able to attend and testify before the committee due to sickness and inclement weather.

I am enclosing my original letter of support dated December 16, 1992. Dennis Kern suggested that perhaps someone could read the letter for me. He suggested Royal Johnson of Billings. I understand that James Haughey will not be able to attend the testimony as well. This is the worst time this blizzard could have hit the state as far as this bill goes.

Dennis informs me that the opposition to the bill is loud and vehement. This is unfortunate. I feel that if people were truly informed of its content they would support it. It is not a regulatory bill, nor is it a discriminatory bill. It is a consumer protection bill. Any legitimate print artist or dealer should be glad that someone has gone to so much effort to draw up this bill which demands honesty in product sales. Other industries have disclosure bills to protect the consumer and the salesman alike. Why not the art market?

I have also enclosed an advertisement from the December 4, 1992 ENJOY! magazine of the Billings Gazette. Under the image on the left there is the title of the work, the artist's name, the medium, the edition number and the price. However, what is is that they are selling? Are you buying an oil, a print, an oil print, a reproduction? This is a perfect example of misleading advertising. Someone in the know would say you are buying one of 500 reproductions of an oil painting.

Someone not in the know would be confused as to what was for sale. I don't know if  
this will help you but.....

Sincerely,



Terry Karson  
President, Board of Trustees  
Montana Art Gallery Directors Association

EXHIBIT 1  
DATE 1/13/93  
HB 29



# MONTANA ART GALLERY DIRECTORS ASSOCIATION

2112 First Avenue North, Great Falls, Montana 59401 (406) 761-1797

December 16, 1992

To whom it may concern,

This letter is in support of the proposed disclosure of fine art objects bill being introduced in 1993. I am writing on behalf of the Board of Trustees of the Montana Art Gallery Directors Association.

In recent years the tendency of reproduction art dealers and artists to borrow the nomenclature of fine art prints has made it imperative that stricter definitions be placed on objects of art intended for sale to the general public. The widespread use of these terms, such as original print, limited edition, fine art, etc., intentionally confuses an uninformed public, and preys on that ignorance for profit and gain. Misrepresenting reproductions as "prints" implies that they will retain their value and even appreciate, that they are "original" or "fine art" and that there is some special quality about them that sets them above lesser objects like copies.

Claiming a mass production of 40,000 "prints" is a "limited edition" is deceptive when generally a true fine art print is published in an edition of 100 or less. Numbering or signing reproductions is also deceptive if 500 or 1,000 are numbered or signed, but 40,000 are printed. A reproduction is a photo-mechanically produced imitation of a pre-existing image, usually a painting. By this method an infinite amount of images can be made. This is the same process that produces posters, magazines or any other mass produced object.

A fine art print is a work of art that exists in multiple copies. An artist manipulates a matrix (plate, stone, block or stencil) to produce a surface that will transfer ink to paper. By this method a finite amount of prints can be made depending on the durability of the matrix and the amount of friction and pressure applied to it. There is no "original image," no painting. The artist manipulates the surface that will transfer the finished image. The prints themselves are the original works of art, each and every one. Therefore their value is considerably greater than any reproduction.

We do not presume to pass judgement on either the seller or buyer of reproductions, or the images selected. What they do is their business. We do, however, take exception to misleading the public with deceptive information, borrowing the terminology of traditional printmakers, and damaging the credibility of legitimate fine art dealers, artists and presses. While there are undoubtedly many who know what they are buying, there are many more who think they are buying fine art or who simply don't know the difference. This legislation would call for all parties concerned to inform the buyer of exactly what they are purchasing, in no uncertain terms.

Sincerely,



Terry Karson  
President, Board of Trustees  
Montana Art Gallery Directors Association

THE RICHMOND GALLERY

**Greetings**



**Seasons**

**THE BIG HORN GALLERY**

wishes you Happy Holidays  
and

**invites you to attend  
the seventh annual**

*"Merry Little Christmas" Holiday Show*

December 5 - 31, 1992

## OPENING RECEPTION

**Saturday, December 5, 1992**

one to five o'clock P.M.

You are also invited to attend a print signing of "Wells Lamont-Handy Andy's," with Ted Feeley at the Little Big Horn on Saturday, December 5, 1-5 p.m.



# BIG HORN

**1167 Sheridan Ave.  
Cody, WY 82414**

**(307) 527-7587**

...Wells Lamont Handy Andy's." Ted Feeley, oil. Limited Edition 500. \$125

## WELL-BEING: ILLNESS IS PARTICIPATING ARTISTS:

[illegible]

Friday, December 4, 1992

EXHIBIT 2  
DATE 1-13-93  
HB 29

## House Bill #29 Synopsis

This bill requires disclosure of provenance of works of fine art sold or offered for sale in the state of Montana. Its purpose is to assist artists, dealers, and consumers in adhering to uniform definitions that properly represent a work that is being offered for sale as "Fine Art". The bill provides definitions and their context, explains when disclosure is required, and provides civil remedies for misrepresentation and fraud.

The definitions provided are researched from the literature of the field of fine art and current statutes in 11 states.

Disclosure is required if an artist or dealer is offering for sale any material object that is represented as having the unique characteristics of a work of fine art. Disclosure is not required for anything properly represented as being a reproduction or if no provenance is offered orally or in writing with the object. If a dealer is unable to obtain information required for disclosure through reasonable effort, they are not required to provide complete disclosure, but must provide in writing that no documentation or provenance of the piece is known.

Commonplace items such as posters, reproductions with no remarks, handmade items not represented as Fine Art and ordinary souvenir items are exempt from disclosure.

The documentation requires no additional paperwork. Professional, reputable galleries and dealers already provide disclosure documents. The documentation requires the use of the standard definitions provided in this bill, thus the documents already provided only need to be revised to adhere to these definitions. Items sold in trade before 31 October 1993 would be exempt from the requirements of this bill, thus there is adequate time to meet these requirements. Items sold on the seconds market and represented as having unique value after that time should bear the original disclosure documents, with the history of sales attached. If there is no disclosure available for the piece on the seconds market a written statement to that effect is required. This documentation also assists individuals who prepare insurance adjustments for owners, market appraisals for consignment and will properly verify tax exemptions for donations.

The civil remedies included in this bill allow for a full refund plus reasonable interest in the case of unintentional misrepresentation in disclosure. In the case of purposeful misrepresentation the purchaser is entitled to recover three times the purchase price. If consumers require legal assistance in recovery they are entitled to collect reasonable legal fees from the seller.

Disclosure/Documentation

Medium \_\_\_\_\_  
Artist Name \_\_\_\_\_  
Date of Work \_\_\_\_\_  
Sale Price: \_\_\_\_\_  
Name of Dealer/Gallery: \_\_\_\_\_

EXHIBIT	2
DATE	1/13/93
HB	HB29

Photo Optional

Description (use terms defined in HB29 ) in appropriate format: (or attach printed documents)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Condition: \_\_\_\_\_

Additional Comments:

\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Seller (Artist/Dealer/Consignor)

AMENDMENTS TO  
HOUSE BILL 29

1. Page 2, lines 24-25 and Page 3, line 1  
Following: "The fine art is created"  
Strike: "In that case the words 'limited issue' or 'limited release' must be used in disclosure. A limited issue or limited release may or may not be a limited edition."
2. Page 4, Section 2, lines 5-7  
Following: "do not apply"  
Strike: "to fine art: (1) sold prior to October 1, 1993; or (2)"  
Insert: ":(1) to fine art sold prior to October 1, 1993; or (2) to items sold for less than fifty dollars (\$50) each; or (3) to work"
3. Page 4, Section 3, lines 10-11  
Following: "Disclosure required. (1)"  
Strike: "A work of fine art or signed reproduction may not"  
Insert: "Neither a work of fine art which is an impression nor a signed reproduction may"
4. Page 4, Section 3, line 16  
Following: "(b) "  
Strike: "a full description"  
Insert: "a statement"
5. Page 4, Section 3, line 25 and Page 5, Section 3, line 1  
Following: "An accurate description of the process"  
Strike "or medium and materials"
6. Page 5, Section 3, line 1  
Following: "materials used in production"  
Insert: "of two or more impressions"
7. Page 5, Section 3, line 19  
Following: "(i) the date of production"  
Insert: "of the edition or impressions"
8. Page 6, Section 3, line 9  
Following: "or documentation of any conservation treatments"  
Insert: "of which the artist or dealer has knowledge"

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Chicago, Illinois

LORNE E. RENDER, Executive Director  
Great Falls, Montana

C.M. RUSSELL MUSEUM  
400-13th Street North / Great Falls, MT 59401  
(406) 727-8787 / Fax (406) 727-2402

EXHIBIT 2  
DATE 1/13/93  
HB29

December 21, 1992

Patti Bergquist  
MAGDA Administrator  
2112 First Avenue North  
Great Falls, MT 59401

Dear Patti,

I would like to provide this letter of support for the legislative bill covering disclosure for fine arts objects. It seems to me that through this bill a number of issues and principles are addressed regarding reproductions and associated information. This clarification will assist the artist, art dealer, museum and consumer.

Sincerely yours,



Lorne E. Render  
Executive Director

LER/lmm

cc: Dennis D. Kern

# USHER COUNTY ART CENTER

P.O. Box 1284 • Miles City • Montana • 59301 • Phone (406) 232-0635

5 November 1992

EXHIBIT 2  
DATE 1/13/93  
HB 29

To Whom It May Concern:

I am writing to express my support for legislation requiring disclosure of pertinent information about fine art prints and signed reproductions offered for sale. As the Director of a non-profit art museum and a board member of the Montana Art Galleries Directors Association, I am concerned about honest representation of artworks offered for sale.

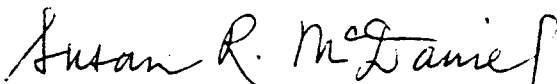
Many people are unaware of the difference in process involved in creating a print and a photographic (or lithographic) reproduction. Prints are original works of art produced by the artist or his agent. Because of the nature of the plate (or matrix) used, only a limited (usually less than 200) number of prints can be produced. The artist usually signs and numbers each original print and notes the total number created. Prints have much greater value than a reproduction, which might be produced tens of thousands of times. The value of a work lies in its rarity or scarcity.

The distinction between prints and reproductions is blurred for the layman, though, when artists have an artwork reproduced and also sign or number each reproduction. Inexperienced buyers might pay much more than such a reproduction is worth, not realizing it is not an "original print."

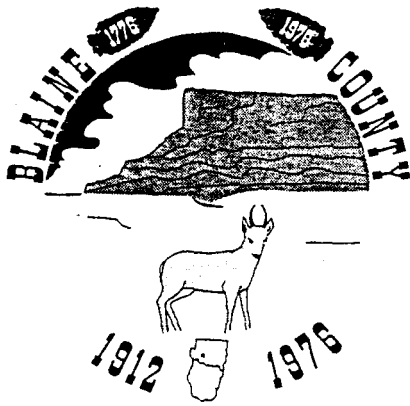
For this reason, most states have laws safeguarding the buying public. Art dealers are required to disclose all known information about prints and reproductions. Montana does not have such a law, but it should, to protect its artists and their patrons.

I urge you to support legislation prohibiting sale of works of fine art or signed reproductions without written disclosure of pertinent information.

Respectfully,



Susan R. McDaniel  
Executive Director



# BLAINE COUNTY MUSEUM

P.O. BOX 927 • CHINOOK, MONTANA 59523 • PHONE (406) 357-2590

December 15, 1992

EXHIBIT 2  
DATE 1/13/93  
HB 29

Ms. Patti Bergquist, Administrator  
Montana Art Gallery Directors Assn.  
2112 First Avenue North  
Great Falls, Montana 59401

Dear Patti:

The Board of Directors of the Blaine County Museum met on Monday, December 14. After discussion, they instructed me to tell you that they do support the legislative bill for an act entitled: "An Act Prohibiting the Sale of Works of Fine Art or Signed Reproductions without written disclosures of pertinent information; creating an express warranty respecting information disclosed."

Sincerely yours,

BLAINE COUNTY MUSEUM

*Madeleine M. Marsonette*

Madeleine M. Marsonette,  
Manager



**MONTANA  
STATE  
UNIVERSITY**

**1893 • CENTENNIAL • 1993**

**School of Art**

213 Haynes Hall  
Montana State University  
Bozeman, MT 59717-0368

Telephone 406-994-4501

October 27, 1992

EXHIBIT 2  
DATE 1/13/93  
HB 29

Montana Art Gallery Directors Association  
2112 First Avenue North  
Great Falls, MT 59401

Dear MAGDA:


As gallery director for the Haynes Fine Arts Gallery, I am writing in support of the Bill which your organization is going to submit to the 1993 Legislature regarding disclosure of information concerning fine art prints and reproductions.

The creation of art is one of mankind's greatest activities. Printmaking is a vital and vibrant art form which allows artists to create numerous additions of a single image. Unfortunately there are people who take advantage of an inherent confusion between what is a fine art print and a fine art reproduction. An original print is many times more valuable than a reproduction because it is direct from the artist's hand and is not mass produced.

To me your bill is not one that limits what a person might sell, it is only a requirement that the seller inform the prospective customer exactly what he or she is receiving.

For the betterment of the art world, I certainly hope that your efforts to get this bill passed are successful.

Sincerely,



John Anacker, Director  
Haynes Fine Arts Gallery



'The Telegram Company'

# Telegram

REPRESENTATIVE VIVIAN BROOKE  
SENATE JUDICIARY & NATURAL RESOURCES  
LEGISLATIVE SESSION OF MONTANA  
HELENA MT 59601

EXHIBIT 2  
DATE 1/13/93  
HB 29

AS A GALLERY OWNER AND APPRAISER FOR 30 YEARS I FEEL HOUSE BILL  
29 WOULD CLARIFY WHAT PEOPLE ARE BUYING AND PROTECT THEM. I LEND  
MY FULL SUPPORT TO HOUSE BILL 29 WE ALL NEED TO BE BETTER  
EDUCATED WHEN IT COMES TO UNDERSTANDING ART.

LEE MORRISON

TO REPLY BY TELEGRAM 1-800-343-7363



# MONTANA ART GALLERY DIRECTORS ASSOCIATION

2112 First Avenue North, Great Falls, MT 59401 (406) 761-1797

January 5, 1993

EXHIBIT 2  
DATE 1/13/93  
WB 29

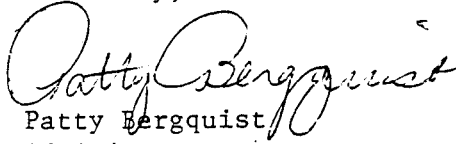
Representative Vivian Brooke  
Capitol Station  
Helena, MT 59620

Dear Representative Brooke:

Enclosed are five letters in support of the legislative bill covering disclosure for fine arts objects. Dennis Kern asked that I mail them directly to you.

Thank you very much for your interest in this very important issue.

Sincerely,

  
Patty Bergquist  
Administrator

Enclosures

# MONTANA ART GALLERY DIRECTORS ASSOCIATION

2112 First Avenue North, Great Falls, Montana 59401 (406) 761-1797

December 16, 1992

EXHIBIT 2  
DATE 1/13/93  
HB 29

To whom it may concern,

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Claiming a mass production of 40,000 "prints" is a "limited edition" is deceptive when generally a true fine art print is published in an edition of 100 or less. Numbering or signing reproductions is also deceptive if 500 or 1,000 are numbered or signed, but 40,000 are printed. A reproduction is a photo-mechanically produced imitation of a pre-existing image, usually a painting. By this method an infinite amount of images can be made. This is the same process that produces posters, magazines or any other mass produced object.

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We do not presume to pass judgement on either the seller or buyer of reproductions, or the images selected. What they do is their business. We do, however, take exception to misleading the public with deceptive information, borrowing the terminology of traditional printmakers, and damaging the credibility of legitimate fine art dealers, artists and presses. While there are undoubtedly many who know what they are buying, there are many more who think they are buying fine art or who simply don't know the difference. This legislation would call for all parties concerned to inform the buyer of exactly what they are purchasing, in no uncertain terms.

Sincerely,



Terry Karson  
President, Board of Trustees  
Montana Art Gallery Directors Association



EXHIBIT 2  
DATE 1/13/93  
HB 29

# University Center Gallery

University of Montana Missoula Montana 59812

December 29, 1992

PATTI BERGQUIST  
MAGDA ADMINISTRATOR  
2112 First Avenue North  
Great Falls, MT 59401

Dear Patti,

This letter is in support of the legislative bill covering disclosure for fine art objects. As a senior in the Fine Art Department, at the University of Montana, and the Gallery Director at the University Center Gallery, on the University of Montana campus, I find the requirement of written disclosure to be vital in the sale of fine art objects, for it protects the student artist and professional artist, as well as the purchaser.

This standard of disclosure will help lessen the occurrence of false-authentication, will strengthen the business-relationship between artist(consignor) and dealer (consignee), and will promote the purchaser's acknowledgement of the quality of the fine art object.

Sincerely,

Kathleen Harrington  
Gallery Director

EXHIBIT 2  
DATE 1/13/93  
HB 29



Copper Hillage Museum and Arts Center

Board of Directors

January 4, 1993

Patty Berquist  
MAGDA Administrator  
2112 First Avenue North  
Great Falls, MT 59401

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Susan Fischer
- Vice President  
Judy Murphy
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Ross Evans
- Secretary  
Amy Dodd

Dear Ms. Berquist:

- Barbara Andreozzi
- Alan Badar
- Mike Blotkamp
- Fred Boyer
- Jackie Cerise
- Michele Dayton
- Barbara Guhike
- Kerry Hatcher
- Debbie Johns
- Teresa Verlanic
- Liz Willett

I am writing both in my capacity as Executive Director of CVMAC, a not-for-profit arts organization, and as a professional fine artist.

I would like to offer my support for the upcoming legislative bill covering disclosure for fine art objects to be presented by representative Vivian Brooke this January.

Staff

- Executive Director  
Linda Talbott
- Director of  
Community Programs  
Carol Jette
- Director of  
Education  
Ellie Heaphy-Deeks

It is vital to the interests of institutions, artists, patron, buyer, insurers, etc., that adequate and accurate disclosure be a requirement of all parties involved in the sale of a work of fine art. This legislation will protect both artists and art buyers, and insure that avenues for remediation exist in the event of misrepresentation.

Sincerely,

Linda Talbott, Executive Director  
CVMAC

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EXHIBIT 2  
DATE 1/13/93  
HB 29

January 11, 1993

Dear Committee Persons:

I request you read this letter as testimony for the need of the House Bill on Fine Arts Disclosure on the hearing date 1/13/93.

I have been in the gallery business in Montana since 1977. I adhere to the ethics of good business practices and the ethics of the Indian Arts and Crafts Association, a member for the first five years in business and a member of the Missoula Chamber of Commerce. I have been an exhibitor at the Charles M. Russell Show since 1978. I sell original art, bronzes, lithography, photography, basketry, pottery, & silver & turquoise jewelry and a variety of gifts. Many items I sell are signed, numbered, or one of a kind and the sales slips reflect that information to the customer. I also sell posters and cards by Monte Dolack, Thomas Mangelsen and others. So I have a varietal inventory.

As I read this bill, it would not effect me as a gallery. Our sales slips list all of the information that appears to be required for full disclosure of the works sold. If the customer requests, we enclose a standard appraisal form of the work purchased.

I do know in Missoula there has been more than one case of less than ethical behavior.

I carry a limited edition of a Harley Hettick photographic print of buffaloes fighting. Harley is a former Missoulian photographer and a Free Lance Artist. The item is signed numbered, #/1500, selling framed at \$595., unframed \$450. These items are on consignment from the artist. Last summer a woman complained that another shop in Missoula had the same image framed at \$300 and that I was gouging the public. On closer examination of the item priced at \$300., I found that it was an unsigned framed poster probably worth about \$50 plus the price of the framing.

I believe this is what this bill is all about; attempting to clean up the Art World in Montana. In my years in business in this state, practices have been fairly ethical. Recently though, there seems to be some compromise of ethics.

I have also had many people in my shop looking for "scaled down Dolack or Bev Doolittle prints". I have explained innumerable times that posters, lithographs, bronzes, that all original works of art are issued in one size only and the magic of owning a piece of original art is that there are no reproductions as miniatures or half size images unless they are cards or part of a book of

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EXHIBIT 2  
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AL HB 29

Page 2.

published images. Such items may be sanctioned by the artist but are not signed and are not meant to be sold, framed, or marketed as though they are part of the original prints in a series. Tearing up a book, framing and selling those "framed prints" is a violation of the copyright laws in the United States. The consumer has far greater reparations than are offered in this law in Montana. (I am referring to the Bev Doolittle "Miniatures".)

I have mentioned a couple of violations of art ethics to you. I know of many others that occur on a regular basis.

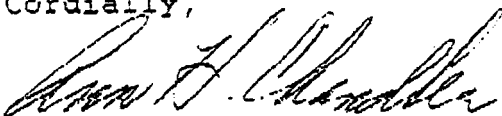
I represent artists in their art, carvings, beadwork, tanning, etc. Many times I have had people purchase original art and ask how they can get it reproduced. When they inquire, I tell them that if they reproduce the art, I will bring suit in the Artist's name and by the gallery.

I understand there is a certain hysteria in the Art World about this bill. To All of You, let's stop and look at What We Do Now. I write detailed sales slips, so do you.

What is this bill creating? It's creating a code of ethics for the Art World. We've all, that is most of us, have adhered to all these ethics since we started out even if they weren't "law". Those people who haven't or have fudged a bit may to be sure our industry - the Arts - are protected. Many art dealers throughout the state have represented many artists fairly and honestly -- be sure that in the future you have the same representation.

I believe the language of this bill is very legalize and could be more user friendly. I support the principles but hope we can be more specific. I would be happy to aid on some of the rewording. However, I will be out of state until 1/21/93.

Cordially,

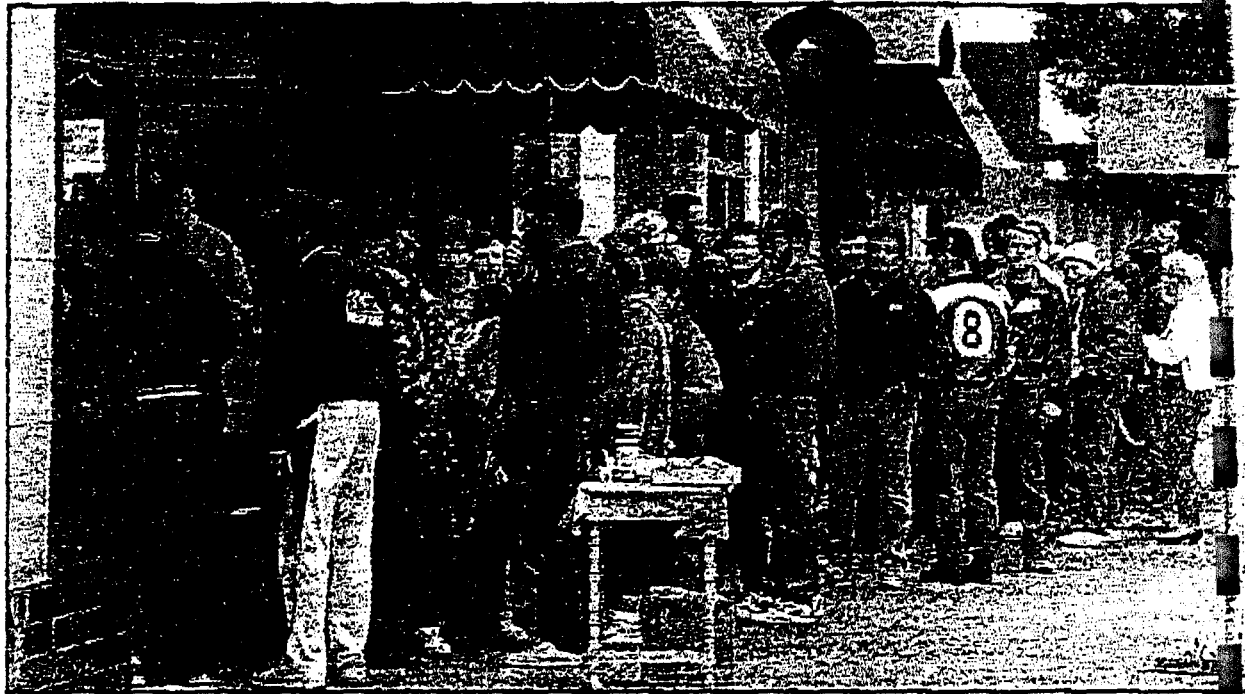


Ann H. Chandler, Owner



CITY / STATE

## Art enthusiasts



Gazette photo by Larry Maye

Enthusiasts of artist Bev Doolittle line up to purchase her most recent print "Eagle Heart" at Crumbacher Gallery Saturday morning in Billings. Some of the people had been waiting in line since 5:30 p.m. Friday for one of the 50

prints to be sold on a first-come first-served basis. Another 50 prints will be sold during a drawing at the gallery next week according to owner Donna Lehm. The prints sell for \$285 each and 48,000 copies were printed.

Post-It® brand fax transmittal memo 7671 # of pages 1

To: Rep. Vivian Brooke	From: Jim Haughey
Co.	Co.
Dept.	Phone #
Fax #	Fax #

COPIES 2  
1/13/93  
WB 29

Dear Representative Brooke and House Business Committee Members,

I am writing to you with my support for HB 29. This legislation addresses directly a need for clarification with regard to the production and marketing of "limited edition reproductions" which have become so popular in recent years.

I have been painting and drawing since I can remember. I received my undergraduate Fine Arts degree (B.A.) in 1983 from Oberlin College. I have been a printmaker for over ten years now in intaglio, relief, silkscreen, and lithography. I am finishing my MFA in printmaking this spring at the University of Montana. Printmaking is a large part of my professional practice and I have worked hard to learn the wide range of techniques and processes.

I would never consider a photo-mechanical offset lithographic reproduction a fine art print. Technically it is *printed*, but so are newspapers, magazines, kleenex boxes and gum wrappers. All are the products of offset lithography. These reproductions can be very good and I am thankful for them. As an artist in Montana I have to rely heavily on reproductions to stay current with artistic trends around the world or to do historical research. For example, I have several very high quality reproductions of Rembrandt prints that I purchased from various museum gift shops. I prize them highly but they certainly are not genuine Rembrandts. Even if I could magically go back in time and get Rembrandt's signature on one of them, it still isn't a genuine Rembrandt. This is true for a limited edition reproduction. A simple but clear way of thinking about the difference is a limited edition reproduction is nothing more than a poster with the letters left off.

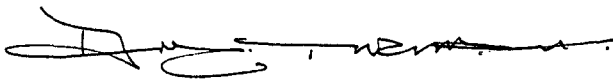
I am, frankly, baffled why anyone would pay fairly large sums of money for a photo of a painting. It is after all the photo of the painting that is reproduced. The value is only in the signature and the artificial rarity of the reproduction. No serious collector of art would consider such reproductions art. You might as well collect pictures cut from calendars. There is certainly a need for reproductions. They can and should be an inexpensive alternative to those who cannot afford real works of art. They should never be passed off or priced as real works of art. I believe HB 29 attempts to stop this fraudulent practice.

EXHIBIT 2  
DATE 1/13/93  
HB 29

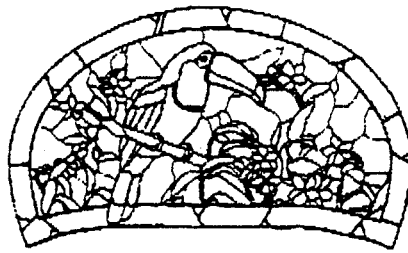
I am not condemning all artists who make such prints or galleries that sell them. Many galleries and artists are very clear in stating that such work is a photo-reproduction. The paintings that are reproduced are often very fine works of art. Ideally the artist can make a few extra dollars which most artist need and the public can have inexpensive reproductions in their homes of some of their favorite artist's works. Unfortunately, printmaking is an unfamiliar subject to most. I am amazed how few artists can accurately describe even one of the printmaking processes, let alone make a print. The danger is in the confusion between photographic reproductions and the quite separate art of printmaking. Please help preserve the integrity of the art of fine art printmaking by supporting HB 29.

I am sorry that I cannot testify in person. My teaching responsibilities at the University of Montana keep me here especially at the start of the semester. If I can answer any questions or be of any assistance please do not hesitate to contact me.

Thank you for your time and consideration.  
Sincerely,

A handwritten signature in black ink, appearing to read "Doug Turman", with a long horizontal flourish extending to the right.

Doug Turman  
620 Gerald Ave.  
Missoula, MT 59801  
(406) 728-5908

**TOUCAN GALLERY**EXHIBIT 2DATE 1/13/93HB 29

January 11, 1993

Vivian Brooke, Representative  
Business and Economic Development Committee  
Capitol Station  
Helena, MT 59620

Dear Ms. Brooke,

I am an art dealer, having operated Toucan Gallery in the Billings area of the last 11 years. My gallery specializes in the sale of original fine art only, no reproductions. This is not an elitist approach, I simply wanted to distinguish my gallery in a city with several dozen art establishments which sell reproductions.

There is great confusion surrounding this issue and the general public is the loser. I and my staff spend a great part of our work week clearing away this confusion and educating buyers as to the exact nature of their art purchases.

All reputable artists supply detailed documentation with their work. This would not be a burden to the artist nor the dealer.

A disclosure form would simply aid the public in their art purchases. There is room for all sorts of art--posters, limited edition reproductions and original work. Let there simply be truth in advertising and full disclosure accompanying the sale of art work. Please support this bill.

Sincerely,

Vicki Van Buskirk-Peterson  
2505 Montana Avenue  
Billings, Mt 59101

# MONTE DOLACK GRAPHICS

EXHIBIT 3  
DATE 1-13-93  
HB 29

January 8, 1993

To: Steve Benedict and the Artists, Dealers and People interested in House Bill 29

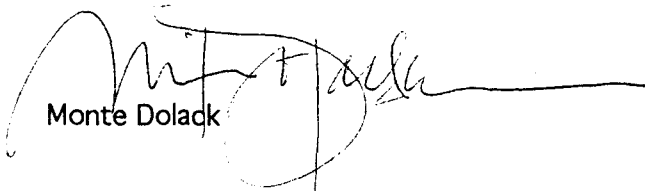
As a Montana artist working primarily in two dimensional media, including original lithographs, posters and other printed items, I would like to comment on the proposed Fine Arts Disclosure Bill. I have always used documentation for my limited edition prints, which usually consists of an 8 1/2 x 11 sheet of paper with all pertinent information concerning the creation of the print and materials used. This is a common practice in the field of traditional fine art printmaking and actually enhance the art work involved.

In recent years, with the advent of modern photo-offset reproduction printing techniques, there has been a greater number of artists and dealers introducing limited edition prints into the market. A great many of these are reproductions of paintings, as well as a resurgence in the time-honored traditional printmaking techniques. The producers of photo-offset reproductions generally refer to these as "fine art prints". But more accurate terminology would be to call them **fine art reproductions**. Some of these editions have been extremely large. When a collector buys a piece of art for anything other than pure enjoyment, I personally believe that any long lasting investment potential may be negligible if the edition size becomes too large.

Because I also use the offset reproduction process to print posters, I have gone to great lengths to keep the difference between my posters and my original hand drawn lithographs **very** clear. This has been done for my collectors and to try and educate those people interested in my work and art printing in general. It's a continuing, almost daily process, because there is no standardized definition.

I think it is a good idea to have clear, concise terminology that will be easy for dealers, artists and collectors to work with. If this bill passes, one idea would be to have an easy-to-read reference manual for those involved. I think it is important to keep this as simple as possible. Many dealers seem to be upset over the complexity of having a lot of paperwork. There is possibly an aversion to additional government "interference" in the traditionally independent art world as well.

Most artists or distributors **should** be offering documentation. Dealers would then have documents with every print or multiple they represent for resale. It is irresponsible not to do so. However, I don't think this disclosure should be required for gift shop items, functional pottery, notecards or posters. It should be available for investment quality prints, reproductions or sculptural multiples. After a print goes over \$200-\$300 in price, disclosure is an archival necessity for any future resale. I don't believe this bill represents an assertion from any academic or elitist art group. I think it makes sense to help define the confusing terminology in the growing and specialized area of fine arts.

  
Monte Dolack

TESTIMONY BEFORE STATE OF MONTANA HOUSE OF REPRESENTATIVES  
IN SUPPORT OF PROPOSED HOUSE BILL #29  
JANUARY 13, 1993

TO: HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES  
STATE OF MONTANA

LADIES AND GENTLEMEN:

I appreciate this opportunity to submit testimony to the House of Representatives in support of proposed House Bill #29 by Representative Vivian Brooke of Missoula. I live in Big Timber, Montana, and am a lawyer with the law firm of Swandal, Douglass, Frazier & Cole in Livingston and Big Timber. I am one of the few lawyers in the State of Montana with a practice in what is generally called "intellectual property law" dealing in copyright and trademark, and specifically art law. I have studied this bill at length and have consulted with Mr. Dennis Kern of the Art School at the University of Montana who along with Mr. James Haughey of Billings was instrumental in its drafting. The bill is substantially similar to that in approximately twelve or fourteen other states and is certainly needed in the State of Montana. I myself have written several articles for national art publications relating to the abuses which this bill is designed to eliminate.

The limited edition print, plate, sculpture and variety of other consumer products has become one of the most successful marketing techniques developed in contemporary American culture. A typical limited edition print, which this bill defines as a reproduction, is a photo offset lithography type of reproduction which in essence is a photo reproduction of an original work of art done in a limited edition of typically signed and numbered prints with additional artist's proofs, publisher's proofs, printer's proofs and often a variety of other types of proofs which in actuality expands the edition. From time to time, when an individual artist has enjoyed the success of selling out his limited edition print or sculpture, there have been instances of the image or sculpture continuing to be reproduced by the artist in what is often called a decorator edition or decorator print or open edition or some other title. The whole purpose of a limited edition is to limit the number produced. If an artist declares a limited edition of 1,000, for example, then there should be no more than 1,000, and that is what this bill is designed to ensure for the art-consuming public. In my law office alone, I can attest to four Montana artists who are abusing the system in this fashion. In each case, the artist has exceeded the number declared in his limited edition and produced additional prints or sculptures for sale. This is a problem which is occurring throughout the United States and twelve or fourteen other states have passed similar legislation to deal with this issue. There has been an attempt or two in the United States Congress to regulate such practices, but the bill has not yet passed. I might point out that the bill having been considered in the

United States Congress is considerably more aggressive in its regulation than is the one under consideration here.

I believe that the bill as proposed by Representative Brooke is a rather mild attempt to regulate this practice. In essence, it is stating that if an artist or gallery sells to a buyer what is represented as a limited edition print, then it must be a limited edition print, and there must be some documentation to support it. This is certainly not uncommon. The major print publishers in the United States submit this information with the prints they market, and each print typically is sold to the collector with a certificate of authenticity setting out information similar to that required by this bill.

It is my understanding that some artists and dealers have objected to the bill on the ground that it will require more paperwork of them. I do not see that this is a valid objection to the bill because what is required under this bill is little more than what the gallery or artist should be keeping up with anyway by way of inventory control.

I also think that the issue of warranty is an important consideration. I remember writing an article for Art of the West magazine several years ago in which I suggested that if these abuses continue to occur some elements of warranty law would undoubtedly be held to apply to the sale of artwork. The abuses have continued, and I believe that some warranty provisions are justified. Again, it is simply a matter of the artist or dealer selling to the consumer what is represented. The artist or dealer then warrants to the buyer that what he is getting is what the artist or dealer has told the buyer that he is getting.

It appears to me that the objections to this bill have resulted from a lack of either reading it or understanding it, and in some cases from a denial of the existence of the problem.

In closing, I would think that artists and dealers who market limited edition prints would appreciate the additional protection and prestige which would flow to them, and in turn to the customer by knowing that what is actually being sold and bought is in truth a limited edition as represented.

I represent not only artists but also dealers, collectors, and publishers, and I believe that this bill will benefit all segments of the art market.

Thank you.

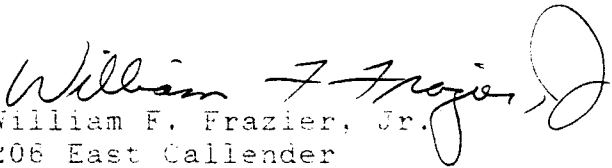
  
William F. Frazier, Jr.  
206 East Callender  
Livingston, Montana 59047  
(406) 222-3201



EXHIBIT 5  
DATE 1-13-93  
HB 29

R.F. MORGAN

MR. CHAIRMAN:

MEMBERS OF THE COMMITTEE:

LADIES & GENTLEMEN:

MY NAME IS ROBERT F. MORGAN. I APPEARED BEFORE THIS COMMITTEE ON THURSDAY, JANUARY 7th, IN OPPOSITION TO HB 29. AT THAT TIME, I AND MY COLLEAGUES HAD ONLY THREE DAYS TO PREPARE A RESPONSE TO THE PROVISIONS OF THIS PROPOSED LEGISLATION. THIS ENTAILED INFORMING THOSE WORKING ARTISTS AND PROFESSIONAL GALLERIES AND DEALERS THROUGHOUT THE STATE OF MONTANA OF THE EXISTENCE OF THE PROPOSED BILL, AND IN ROUGH TERMS THE PROVISIONS THAT WOULD GREATLY HARM THE "PRINT BUSINESS," IMPOSE RESTRICTIONS OF TRADE, DICTATE ARTIST/GALLERY RELATIONS AND PRESUME TO ESTABLISH NEW STANDARDS TO THE BUSINESS CANON OF SUPPLY AND DEMAND.

CONTRARY TO THE HEADLINE IN THE HELENA INDEPENDENT RECORD OF JANUARY 8th, ARTISTS/SELLERS PROTEST ART DISCLOSURE, THERE WAS NOT AN EFFORT MADE TO STIFLE DISCLOSURE, BUT SIMPLY TO INFORM THIS COMMITTEE THAT THE LEGISLATION BEFORE THEM CREATED MORE PROBLEMS THAN IT SOLVED. [REDACTED]

[REDACTED] AT THAT TIME I ASKED  
THE COMMITTEE TO KILL THE PROPOSED LEGISLATION ON THE PREMISE THAT HB 29  
WAS COSTLY, INADEQUATE AND UNENFORCEABLE. AFTER HAVING A WEEK TO CAREFULLY STUDY  
THE PROPOSED LEGISLATION, CONFER WITH OTHER PROFESSIONALS AND RESEARCH THE BACKGROUND  
OF PRINTS AND PRINTING TODAY IT IS MY PROFESSIONAL OPINION THAT THIS BILL,  
HOUSE BILL 29, BE GIVEN A DECENT BURIAL.

I AM CONCERNED THAT A SMALL GROUP OF NOT FOR PROFIT GALLERY DIRECTORS COULD CONCEIVABLY SERIOUSLY RESTRICT A BUSINESS (TO MEET THEIR OWN STANDARDS) FOR THE BENEFIT OF A FEW. THESE SAME TAX FREE, TAX EXEMPT INSTITUTIONS ARE SUPPORTED BY THE SAME ARTISTS AND TAX REVENUE DISPENSING AGENCIES THAT THEY NOW ABHOR. I FAIL TO SEE THE LOGIC AND I DEFINITELY RESENT THE IMPOSITION AND CONFUSION THEY HAVE CAUSED. IF I REMEMBER CORRECTLY, IN THE GALLERY FIELD AND MUSEUM FIELD IT IS THE PRIMARY JOB OF THESE INDIVIDUALS TO INFORM AND EDUCATE THE PUBLIC IN THE ARTS. I MUST ASSUME THAT THEY HAVE FAILED MISERABLY IN THAT JOB.

I WOULD AT THIS TIME, WITH YOUR INDULGENCE, REVIEW BRIEFLY THE POINTS OF CONFLICT THAT ARISE FROM THIS PROPOSED BILL.



1. THE VERY TITLE OF THE BILL ENCROACHES ON MY RIGHT AS AN ARTIST TO KEEP MY TECHNIQUES AND/OR METHODS IN CREATING A WORK OF ART, TO MYSELF. I WONDER WHAT MAXFIELD PARRISH WOULD HAVE SAID TO THIS? HIS CAREER WAS BUILT ON THE FACT THAT HE HAD A GLAZING TECHNIQUE THAT ALLOWED HIM TO CREATE A LUMINOSITY <sup>IN HIS WORK</sup> HERETOFORE UNKNOWN....IT WAS HIS REAL TICKET. HOW FAR DOES DISCLOSURE GO?

CREATING AN EXPRESS WARRANTY AND PROVIDING CIVIL REMEDIES FOR VIOLATIONS ARE LOFTY IDEALS BUT IN TRUTH THE PROFESSIONAL GALLERY PEOPLE AND ARTISTS CANNOT AFFORD TO OFFER ANYTHING BUT INTEGRITY AND HONESTY TO THE PUBLIC. I DON'T RECALL EVER HEARING A GALLERY OWNER OR ARTIST SAY, "THE PUBLIC BE DAMNED". NO, I HOPE THE I.R. GETS THAT RIGHT!

2. IN SECTION 1 as amended, DEFINITIONS: NUMBERS 1, 2, and 3 APPEAR TO BE IN LINE WITH THE ENGLISH LANGUAGE AND ACCEPTABLE, HOWEVER NUMBER 4, "EDITION", AS IT IS WRITTEN WOULD ALLOW ANY PRINT PRODUCED BY TWO OR MORE "RUNS" TO FALL INTO THE CATEGORY OF FINE ART. THERE ARE PRESSES THAT CAN PRODUCE A FOUR COLOR PRINT IN ONE RUN, BUT THERE ARE CASES WHERE A PRINT IS PRODUCED BY PRESSES (MECHANICAL) RUNNING THE THREE PRIMARY COLORS, RED, YELLOW, BLUE AND THEN BLACK <sup>SEPERATELY</sup>. I ASSUME THESE THEN WOULD BE IN THE FINE ART CATEGORY. OFFSET PRINTING WOULD APPLY TO MECHANICAL PRINTING ALSO. THERE IS A MENTION OF METAL IN THIS SECTION, REFERRING TO SCULPTURE, BUT THIS AREA OF FINE ART GETS LIGHT TREATMENT THE REST OF THE WAY WHEN IT IS VERY IMPORTANT AND COULD BE AN AREA OF EVEN GREATER CONCERN THAN PRINTS.

IT APPEARS THAT THERE IS CONFUSION OVER THE PROPER WORDING FOLLOWING THE WORD LIMITED IN LINES 24 & 25 & LINE 1 ON PAGE 3. WE HAVE ISSUE, RELEASE AND EDITION. I WOULD SUGGEST ONE ONLY....LIMITED EDITION. WE HAVE USED THAT TERM FOR MANY YEARS. ON LINE 6 (PAGE 3) WE AGAIN HAVE SCULPTURE MENTIONED, AGAIN THE WRONG TERM IS USED. IT SHOULD READ ---"ORIGINAL MODEL" NOT CAST ! IF YOU CAST FROM A CAST YOU HAVE A RE-CAST NOT AN ORIGINAL CASTING.

ON LINE THIRTEEN, NUMBER 10, THE DEFINITION OF AN ORIGINAL PRINT LEAVES ME WONDERING WHY THE PROPONENTS WISH TO USE THE WORDS PHOTO-MECHANICAL IN DESCRIBING THE MASS PRODUCED PRINTS THEY ARE SO UPSET ABOUT. HERE WE FIND THAT THE IMAGE CONCEIVED AND COMPLETED BY THE ARTIST, WITH OR WITHOUT THE ASSISTANCE OF CRAFTSMEN PERSONS (JOURNEYMAN PRESS OPERATOR & ASSISTANT ARE CRAFTSMEN PERSONS), AND WE HAVE USED THE ART OF LITHOGRAPHY AND ALSO PHOTOGRAPHY AND GRAPHIC ART PROCESSES IN PRODUCING A LIMITED EDITION PRINT. I BELIEVE THAT AN ORIGINAL PRINT IS CONCEIVED AND PRODUCED BY THE ARTIST.....PERIOD!

SECTION TWO (NEW) THIS SECTION IS ALMOST UNINTELLIGIBLE, I CANNOT UNDERSTAND THIS ONE AT ALL.

SECTION THREE (NEW) THIS AGAIN IS WITHOUT INTELLIGENT KNOWLEDGE OF THE FORMS OF ART INVOLVED, PROCEDURES, WHAT IS PRESENTLY IN FORCE, PROBLEMS THAT SHOULD BE ADDRESSED AND GENERALLY CREATES HAVOC WITH ACCEPTED STANDARDS. THIS WILL REQUIRE THE WORK OF PROFESSIONAL GALLERY PEOPLE, DEALERS AND ARTISTS. IT IS POORLY AND

SECTION TWO IN DEALING WITH WARRANTY, CONCLUDES THAT "EXPERTS" CAN PROVIDE INFORMATION THAT THE GALLERY/ARTIST COMMUNITY CANNOT. I WOULD LIKE TO SEE THE WORD "EXPERT" DEFINED. HOW WOULD AN EXPERT BE IDENTIFIED, WHO WOULD MAKE THAT DECISION, AND WOULD HE BE CERTIFIED "EXPERT", BY ACADEMIC BACKGROUND, EXPERIENCE OR WHATEVER. I BELIEVE THE TERM "QUALIFIED" WOULD SAVE YOU A LOT OF HEADACHES. MOST "EXPERTS" DON'T WANT THE TITLE EXPERT.

GENERALLY SPEAKING, MOST OF THE VERBAGE CONNECTED WITH THE WARRANTY, GUARANTEE, AND APPRAISALS IS NEGATED BY THREE SIMPLE WORDS...."IN MY OPINION". I NOTE THAT MY OPINION CANNOT BE TAKEN FROM ME, AND I NOTE THAT IN LINES 11 thru 17, THERE ARE A NUMBER OF OPINIONS MENTIONED, ~~ALL~~ ALL ARE LIABLE UNDER THE VERBAGE OF THIS SECTION. I AM AFRAID THAT THIS SECTION ALONE WILL CAUSE MORE GRIEF, THAN ALL OF THE ~~VERBAGE~~ PREVIOUS. SECTIONS!

SECTION FIVE PAGE 7, IS JUST TERRIBLE! WERE YOU HOLD THE ARTIST OR DEALER LIABLE FOR VERY SLIM REASONS. I WONDER WHAT OUT OF STATE DEALERS WOULD THINK OF THIS.....AND DEALERS IN THE STATE WHO DEAL WITH DECEASED ARTISTS WORKS DAY AFTER DAY. THE MYRIAD OF WORK, VARIATIONS OF THE NORM, ARTWORKS THAT ARE LONG PAST THE SCRUTINY REQUIRED AND PAPERWORK REQUIRED. THIS AGAIN IS NARROWLY WRITTEN TO GET AT ONE SEGMENT OF THE ART COMMUNITY AND ENDS UP BEING A CAN OF WORMS. MY GUESS IS THAT MAYBE FIVE YEARS DOWN THE ROAD SOME KIND OF DOCUMENT MIGHT BE INITIATED IF THE TIME AND TALENT WERE AVAILABLE, BUT AS THIS IS, IT IS WORTHLESS! I BELIEVE THERE ARE ADEQUATE LAWS IN PLACE AT THE PRESENT TIME TO TAKE CARE OF FRAUD AND CHICANERY.

SECTION 6 IS NOTHING MORE THAN COMMON PRACTICE IN THE ART FIELD EXCEPT FOR LINES 9 thru 16 RELATING TO THE ARTIST AND GALLERY OWNER. IT WILL BE A COLDER DAY IN HELENA WHEN ARTISTS AND DEALERS WILL SIGN A CONTRACT AS PROPOSED, AMONG THE PROFESSIONALS IN THIS STATE. SOMEONE IS DREAMING ON THIS ONE. I CAN UNDERSTAND A GALLERY IN A LARGE CITY, CHICAGO, NEW YORK, L.A., DALLAS, MINNEAPOLIS, ETC., BUT NOT IN MONTANA. IF YOU WANT TO DREAM ON THIS ONE GO AHEAD.

IF I HAVE BORED YOU, PARDON ME! ~~THE~~<sup>my</sup> OUTLINE OF HAZARDS AND SHORTCOMINGS IN THIS BILL LEAD ME TO EMPHASIZE THAT LEGISLATION OF THIS NATURE IS HIGHLY TECHNICAL, YET UNIVERSAL IN DESCRIPTION NOT GIVEN TO ~~THESE~~ BLUNDERS THAT CREATE AN ATMOSPHERE OF CHAOS.

I THANK THE COMMITTEE FOR YOUR TIME AND REASON. IT IS NOT EASY TO COME BEFORE A COMMITTEE OF THE LEGISLATIVE BODIES AND I KNOW THAT THERE ARE OTHERS WHO, IF THEY WERE ABLE, WOULD BE HERE TODAY. I AM NOT THEIR SPOKESMAN, BUT I AM SPEAKING ABOUT THEM AND I SINCERELY HOPE THE COMMITTEE WILL CONSIDER MY APPEAL AS A FULL-TIME WORKING ARTIST AND TABLE HB 29.

THANK YOU!

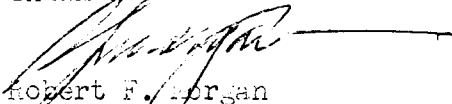
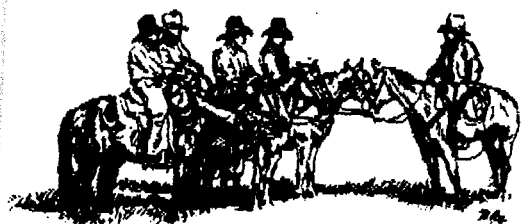
  
Robert F. Morgan

EXHIBIT 5  
DATE 11/13/13  
HB 291



Bud Helbig

P.O. Box 484 • Kalispell, MT 59903 • 406-756-6131

EXHIBIT

DATE

HB

6  
1-13-93  
29

95

Jan 12, 93

Rep. Ray Brandiwine

Dear Mr. Brandiwine,

It is my understanding that House bill <sup>29</sup>29 come up for vote tomorrow. I urge you to vote against it because we already have enough laws on the books to cover the problems. I'm afraid it would have the effect of hurting sales for artists, especially young artists just getting started.

It probably wouldn't affect me too much since I've been making my living as a professional artist for over forty years. A member of the Cowboy Artists of America for over twenty one years.

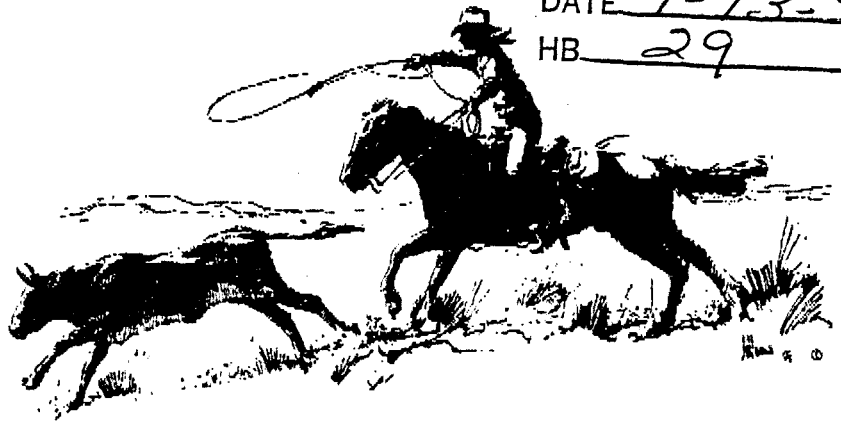
Please vote against House bill <sup>29</sup>29!

Sincerely

Bud Helbig

EXHIBIT 7  
DATE 1-13-93  
HB 29

JAN 10<sup>TH</sup>, 1993  
REP. RAY BRANDEWIE  
CAPITOL STATION  
HELENA, MONTANA  
59620



DEAR RAY —

IN 1964 I MOVED TO MONTANA TO PURSUE  
A CAREER IN FINE ART AND A LIFE IN A STATE  
KNOWN FOR ITS FRONTIER SPIRIT.

IN THE YEARS THAT HAVE MOVED BY ALL TO  
QUICKLY, I HAVE BEEN ELECTED INTO THE  
PRESTIGIOUS COWBOY ARTISTS OF AMERICA GROUP,  
I AM PROUD TO BE REPRESENTED BY SEVEN  
OF THE TOP GALLERIES IN AMERICA AND HAVE  
ESTABLISHED A LIMITED EDITION PRINT COMPANY  
THAT SELLS PRINTS AND POSTERS TO GALLERIES  
AND FRAME SHOPS IN 27 OTHER STATES BESIDES  
MONTANA.

I FEEL THAT HAD A LAW LIKE HB<sup>#</sup> 29  
BEEN ENACTED IN THOSE EARLY YEARS THAT  
IT WOULD HAVE BEEN A DETERENT TO THE  
DEVELOPMENT OF THE ARTS IN MONTANA.

AS A PAST PRESIDENT AND DIRECTOR  
OF THE COWBOY ARTISTS OF AMERICA AND  
A RESIDENT OF MONTANA FOR 28 YEARS, —

DATE 1-13-93

HB 7

- I MUST GO ON RECORD TO LET YOU KNOW  
I AM ABSOLUTLY AGAINST THIS BILL,  
WE LIVE IN AN ERA WHERE WE SHOULD  
BE STREAMLINING THE GOVERNMENT AND  
NOT ADDING TO AN ALREADY OVERBURDENED  
STATE EXPENDITURE.

IN ALL OF MY 28 YEARS OF SELLING LIMITED  
EDITION SCULPTURE AND FINE ART PRINTS I HAVE  
NOT HAD ONE PROBLEM IN THE AREAS DEFINED  
IN HB#29 NOR DO I KNOW OF AN ARTIST OR  
GALLERY THAT HAS.

RAY - A FRONTIER IS A PLACE WHERE  
PEOPLE ARE NOT OVER BURDENED WITH LAWS.

MONTANA MAY NOT BE A FRONTIER ANY  
MORE BUT THERE IS STILL A FRONTIER  
SPIRIT HERE. LETS DON'T LOSE IT.

SINCERLY -

*Paul Willows*

BOX 464

BIGFORK, MONTANA

59911

EXHIBIT 8  
DATE 1-13-93  
HB 29

January 10, 1993

Rep. Ray Brandewie  
Capitol Station  
Helena, Montana 59620

Dear sir;

I've been a self supporting artist since 1977. Throughout that period of time, I've had the assistance of many galleries throughout the United States.

If a law had been passed in 1977 as you are now considering in HB#29, I feel I would not be enjoying the success I have today. Most artists need galleries for sales; I believe that if the state ham-strings the galleries with excessive beurocratic requirements and increases the galleries exposure to unreasonable liability it will be the end of any sound-minded gallery owners business endeavor, thus ending the livlihood for consigning artists.

This bill infers artists can't be trusted therefore the state must legislate and patrol them.

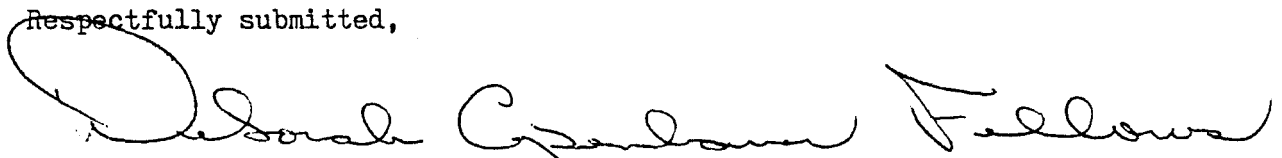
Works of art that I've sold first of all have been purchased because the buyer liked the image or object; secondly if they believed it to be investment potential they could contact me for more details and background.

What has happened to our society when people can't research and think and be responsible for their own decisions?

I moved to Montana two years after completing the State Vietnam Veterans Memorial ( passed by both the State House and Senate of Montana). I've liked living here because it seems to be one of the last places for free thinking, honest people to thrive.

I see no place for this bill in Montana's laws.

Respectfully submitted,



Deborah Copenhaver Fellows  
Box 464/Woods Bay Point

Fine Art and Monumental Sculpture  
Bigfork, Montana 59911 406 / 837-4485

BAYSIDE GALLERY  
482 Electric Avenue - Box 363  
Bigfork, Montana 59911  
(406) 837 5335

EXHIBIT 9  
DATE 1-13-93  
HB 29

Representative Ray Brandewie  
Capital Station  
Helena, Montana 59620

Dear Ray;

Regarding HB29 I would like to make the following points.

1. Since the primary purpose of this bill is to protect the purchasers of Fine Arts it should also apply to art auctions, which I notice are specifically exempted.

2. If the purpose is to protect purchasers of objects which they are purchasing as an investment it should also cover businesses which also engage in the sale of such objects, such as antique dealers and second hand stores.

3. I am in favor of preserving the integrity of the art market and therefore have no problem with protecting purchasers of objects of art and other collectibles from fraud or other misrepresentation. However, I feel this bill will create much unnecessary paperwork to provide consumer protection which can be provided in a much simpler manner.

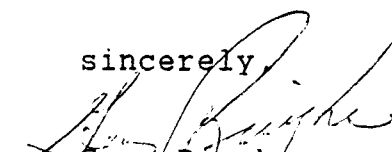
At the moment the purchaser can protect himself by just insisting that the seller provide assurances as specified in this bill before finalizing the purchase.

I would have no problem with this bill if it only required we provide the necessary information if requested by the purchaser. But to require that we provide it to the purchaser of every piece we sell is an overwhelming undertaking. Many of our sales are inexpensive items by local artists. Because each piece of art is an individual item it would require a separate document for each item. To require such documentation for each piece would force us to raise the price of each item to cover the costs. This would reduce the income of the artists through loss of sales.

I am positive that the vast majority of the purchasers would simply discard the documentation. My records show we sold approximately 3000 pieces of art in 1992. Of that number, three purchasers requested Certificates of Authenticity, which we provided.

I believe this bill provides no protection to the purchaser that is not already available to the purchaser on demand. If the legislature wants to specify what information is to be provided if it is requested by the purchaser I have no problem with that. But to require such documentation for each piece of art we sell is ridiculous.

sincerely,

  
Gary Riecke  
artist/art dealer

DAVE MALONEY  
704 GRIZZLY DRIVE  
GREAT FALLS, MONTANA  
59404

EXHIBIT 10  
DATE 1-13-93  
HB 29

406/452-9605

January 13, 1993

RE: HB 29

To the chairman and members of the Business and Economic Development Committee:

I would like to record my opposition to HB 29, the Fine Art Disclosure Bill, as it is presently written and purposed. My reasons for that opposition to this bill are as follows:

1. The process for the initial writing of this bill conspicuously omitted 80 to 85% of those individuals in Montana most directly affected by the ramifications of HB 29, specifically professional artists, private galleries and dealers, and various fringe groups. Many of us had less than 24 hours notice of this bill, let alone any process in its making.
2. The bill as it is presently written, leaves as many questions to be asked as it purposes to answer. It seems in part to contradict itself and is less than precise in implementation. It places, I feel, a heavy burden of documentation on the artist, dealer, and gallery without, in some cases, adequate recourse or protection against unwarranted claims. In short, the bill has short comings in clarity.
3. I question that some aspects of this bill may already have legal recourse under current law. Past and current litigation in Montana might offer proof that some areas are already adequately covered.

Because the intent of this bill may ~~have~~ have merit, it is my recommendation that this committee <sup>consider</sup> consider tabling HB 29 at this time and allow a process for discussion and preparation to take place in a proper manner among all aspects of the Montana art community and consumer representation ~~OR WILL~~

*THE BILL COMPLETELY AND LET US START OVER FROM SQUARE*

*CNS.*

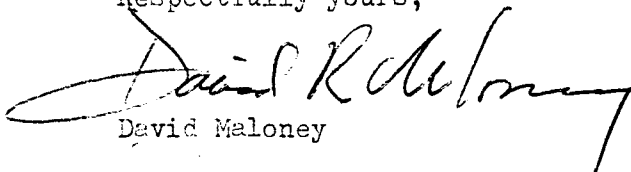


*REVIEW AND INFORMATIONAL*

In this<sup>v</sup> process, I would suggest 6 to 8 regional meetings across Montana where access by all directly affected have the opportunity to be an active part of the process and discussion. As an example, the C.M. Russell Museum in Great Falls has offered its facility to hold such a meeting in our region. Representatives and information from those meetings could then go to a state meetig. I would ask that the Montana Arts Council facilitate and organize that process. It seems to me unfair to ask this committee, at this time, to make a decision on a bill that has not even been reviewed and adequately discussed by those most directly involved.

Thank you for the opportunity to address this issue before your committee.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "David Maloney", with a stylized, sweeping flourish at the end.

David Maloney

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Great Falls, Montana

C.M. RUSSELL MUSEUM

400-13th Street North / Great Falls, MT 59401

(406) 727-8787 / Fax (406) 727-2402

EXHIBIT 11  
DATE 1-13-93  
HB 29

January 12, 1993

RE: HB 29

Chair and Members of the Committee,

I would like to comment on HB 29 Fine Arts Disclosure Bill. Due to a previous commitment at the C.M. Russell Museum I am unable to attend the hearing today but appreciate this opportunity. I have asked Dave Maloney to read this letter however, I want to point out that the issues raised are mine.


I previously sent a letter of support for this bill through the MAGDA representative. I would like to once again state that I am in support of the intent of a bill such as the Fine Arts Disclosure Bill. We at the C.M. Russell Museum receive over a 100 written inquiries annually plus numerous telephone calls regarding paintings, prints and reproductions as well as sculpture and recasts. People are confused about what is an original and what is a reproduction and we encounter numerous instances where people spend sometimes in excess of \$1,000 thinking they have purchased an original while indeed they have purchased a reproduction. One may argue that they thought they had made a good deal and therefore deserve what they receive; on the other hand there are certainly people who are innocent victims. I also believe this confusion impacts negatively on the artist, museum and dealer.

I am however now of the opinion that the bill is in need of further review. It has been clear to me over the last few days in conversations with artists, dealers and collectors that there is a real misunderstanding over the language, and in some cases the intent, of the bill. It would be my suggestion that the bill be tabled and that a process be put in place to review and provide input from the various constituencies affected by the bill. I believe this would provide the opportunity

for all to voice their opinions and allow the development of a bill that is representative and understood by the majority. I would offer the C.M. Russell Museum as a venue for such a meeting within the Great Falls area and would certainly cooperate with others in organizing such a session.

As I mentioned earlier I do support such a bill but I also believe further discussion and refinement is necessary. I would be pleased to address these issues further and assist in the process.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lorne E. Render". The signature is fluid and cursive, with the first name "Lorne" being more prominent.

Lorne E. Render  
Executive Director

AMENDMENTS TO  
HOUSE BILL 29

EXHIBIT 12  
DATE 1-13-93  
HB 29

1. Page 2, lines 24-25 and Page 3, line 1  
Following: "The fine art is created"  
Strike: "In that case the words 'limited issue' or 'limited release' must be used in disclosure. A limited issue or limited release may or may not be a limited edition."
2. Page 4, Section 2, lines 5-7  
Following: "do not apply"  
Strike: "to fine art: (1) sold prior to October 1, 1993; or (2)"  
Insert: ":(1) to fine art sold prior to October 1, 1993; or (2) to items sold for less than fifty dollars (\$50) each; or (3) to work"
3. Page 4, Section 3, lines 10-11  
Following: "Disclosure required. (1)"  
Strike: "A work of fine art or signed reproduction may not"  
Insert: "Neither a work of fine art which is an impression nor a signed reproduction may"
4. Page 4, Section 3, line 16  
Following: "(b)"  
Strike: "a full description"  
Insert: "a statement"
5. Page 4, Section 3, line 25 and Page 5, Section 3, line 1  
Following: "An accurate description of the process"  
Strike "or medium and materials"
6. Page 5, Section 3, line 1  
Following: "materials used in production"  
Insert: "of two or more impressions"
7. Page 5, Section 3, line 19  
Following: "(i) the date of production"  
Insert: "of the edition or impressions"
8. Page 6, Section 3, line 9  
Following: "or documentation of any conservation treatments"  
Insert: "of which the artist or dealer has knowledge"

EXHIBIT 13  
DATE 1-13-93  
HB 29

HOUSE OF REPRESENTATIVES  
53RD LEGISLATURE - 1993  
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE  
ROLL CALL VOTE

DATE 1-13-93 BILL NO. HB 29 NUMBER \_\_\_\_\_

MOTION: Substitute Motion to table as amended.

Motion Carried 15-3

NAME	AYE	NO
REP. ALVIN ELLIS	✓	
REP. DICK KNOX	✓	
REP. NORM MILLS	✓	
REP. JOE BARNETT	✓	
REP. RAY BRANDEWIE	✓	
REP. JACK HERRON	✓	
REP. TIM DOWELL	✓	
REP. CARLEY TUSS	✓	
REP. STELLA JEAN HANSEN		✓
REP. BOB PAVLOVICH	✓	
REP. VICKI COCCHIARELLA		✓
REP. FRITZ DAILY	✓	
REP. BOB BACHINI	✓	
REP. DON LARSON		✓
REP. BRUCE SIMON	✓	
REP. DOUG WAGNER	✓	
REP. SONNY HANSON, VICE CHAIRMAN	✓	
REP. STEVE BENEDICT, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

BUSINESS & ECC. COMMITTEE BILL NO. HB 29  
DATE JAN. 13 1993 SPONSOR(S) BROOKE

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Geoffrey Satten 1804 10 AVES, 6F 59403-	Missoula County Board of Trustees for Museums	✓	
BENITA WHEELER	WESTERN HERITAGE ARTISTS - GREAT FALLS		✓
MIMI GRANT	ARTIST - GREAT FALLS		✓
DONALD R GRANT	ARTIST - GREAT FALLS		✓
R.F. MORGAN	ARTIST - Consultant Helena		✓
Russ Ritter	@ Kul. Galleries		✓
Carol Kuntz			✓
ANDREW R SANGRAY	SELF - ARTFUL FRAMERS		✓
BILL FRAZIER	MONTANA ARTS FOUNDATION	✓	
DAVID MALONEY 704 GAZZLY DR G.F.	ARTIST		✓
Becky Egan 708 Hillside HLLN	Artist		✓
Chas. Mason Helena, Mt.	owner manager CHASON GALLERY		✓
Shirley GARY	Artist - Helena		✓
David A. Kethman	self Ghost Art Gallery		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER**

Business & Economics COMMITTEE

BILL NO. HB29

DATE 1-13-93 SPONSOR(S) Rep Brooke

**PLEASE PRINT**

**PLEASE PRINT**

**PLEASE PRINT**

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.